Progressive Congressional Program

This pamphlet was prepared by the National Legislative Reference Committee of the Progressive Party, at the request of the Progressive Members of Congress.

PUBLISHED BY THE

Progressive National Service

Forty-second Street Building - - - New York City

PROGRESSIVE MEMBERS OF CONGRESS

VICTOR MURDOCK,	Kansas
C. W. BELL,	California.
J. W. BRYAN,	Washington
WALTER M. CHANDLER,	New York
IRA C. COPLEY,	Illinois
J. A. FALCONER,	Washington
WILLIAM H. HINEBAUGH,	Illinois
W. J. HULINGS,	Pennsylvania
M. CLYDE KELLY,	Pennsylvania
A. WALTER LAFFERTY,	Oregon
F. E. LEWIS,	Pennsylvania
C. A. LINDBERGH,	Minnesota
WILLIAM J. MACDONALD,	Michigan
JOHN I. NOLAN,	California
ARTHUR R. RUPLEY,	Pennsylvania
WILLIAM D. STEPHENS,	California
HENRY W. TEMPLE,	Pennsylvania
CHARLES M. THOMSON,	Illinois
A. H. WALTERS,	Pennsylvania
R. O. WOODRUFF,	Michigan

LEGISLATIVE REFERENCE BUREAU

Committee

WILLIAM DRAPER LEWIS
Chairman
JANE ADDAMS
HENRY F. COCHEMS
JAMES R. GARFIELD
FRANCIS J. HENEY
GEORGE W. KIRCHWEY
BEN B. LINDSEY
CHARLES E. MERRIAM
GIFFORD PINCHOT
HERBERT KNOX SMITH
WALTER E. WEYL

DONALD R. RICHBERG
Director

ONO MARY IMHOFF
Assistant to the Director

INTRODUCTORY NOTE

The following bills are presented as the tentative program of legislation adopted by Progressive Members of Congress. Criticism of the measures proposed is cordially invited.

There is a long, hard road from a platform declaration to a bill in fulfilment of the party pledge, and thence to a law upon the statute books. The Progressive Party established a Legislative Reference Bureau to carry forward its Contract with the People. From April to December, 1913, Progressive Congressmen and this Bureau were energetically engaged in the translation of certain planks of the National Platform into bills in Congress.

First.—In order to limit effort to capacity, a careful selection of important measures was made by a joint conference. Then a member of Congress and a member of the Legislative Reference Committee was assigned to be responsible for each measure. Co-ordination of the work of these individuals was made the duty of the Director of the Bureau.

Second.—As drafts of bills were prepared conferences were held to consider and revise the suggested provisions.

Third.—After final approval the bills were introduced (63rd Congress, 1st session) and a brief statement of the purpose and content of each was issued to the press.

Fourth.—The preparation of this pamphlet was authorized in order that the bills might receive wide consideration and criticism by students of the problems involved.

These measures are submitted as expressly tentative in form. The principles underlying them have been for the large part definitely fixed by the national platform and by authoritative conferences of experts in the various subjects. Yet even in the matter of underlying theories of substantive law or administration, it is the purpose of those presenting these legislative proposals to invite criticism and to welcome and to adopt practical suggestions of improvement from all sympathetically interested in the work.

By the direction of the Legislative Reference Committee a brief statement of the need for legislation and an abstract of the tentative remedy has been prepared and is printed as an introduction to each of the proposed bills.

DONALD R. RICHBERG,
Secretary, Legislative Reference Committee.

January, 1914.

CONTENTS

Measures for Social and Industrial Justice.

Investigative Commissions for Social, Political and Business Problems.

Political Freedom.

Permanent Administrative Commissions to Insure Fair and Stable Business Conditions.

"The Trust Triplets"

CHILD LABOR

THE PLEDGE.

"The supreme duty of the nation is the conservation of human resources through an enlightened measure of social and industrial justice. We pledge ourselves to work unceasingly in state and nation for:—

* * * * *

The prohibition of child labor."

—Progressive National Platform.

THE FULFILMENT.

H. R. 6146. Introduced by Representative Ira C. Copley of Illinois, June 17, 1913. Referred to the Committee on Interstate and Foreign Commerce.

Prohibition of Interstate Transportation of Products of Child Labor

THE NEED.

The purpose of national legislation to prohibit interstate commerce in the products of child labor is twofold: First, to eliminate child labor from industry so far as is within the power of the Federal Government; and second, to protect the industries of States prohibiting child labor from the unfair competition of States which do not so protect children.

In his masterly address delivered in the United States Senate January 23rd, 28th and 29th, 1907, Senator Albert J. Beveridge estimated the number of children employed outside of agricultural pursuits, according to the best statistics available at the time, and concluded:

> "I suppose we may say, putting it upon a conservative basis, that as I speak to you here there are now not less than one million children under sixteen years of age (and I shall show by sworn testimony that some of them are *five*, and *six*, and *seven* years of age) at work in the coal mines, in factories, and in the sweatshops of this nation."

The National Child Labor Committee, in its Pamphlet No. 185 has summarized the causes and effects of child labor. A brief abstract of the authoritative statements in that pamphlet will show succinctly the need for the proposed legislation.

Causes of Child Labor.

The first obvious cause for the exploitation of children is the dire poverty of their parents. A government investigation covering 3,297,819 wage earners showed average weekly earnings of $10.06, and of the total number of men, 1,215,798 earned $10 or less a week. It is a cruel result of such conditions that children should be forced into industry at an average weekly wage of $3.46, as shown by the same investigation; thus inevitably forcing down the wages and the opportunities of labor for adults.

The second great cause for child labor is the demand by employing interests for labor at the lowest possible cost, regardless of legal or natural restrictions, and ready adaptation of children's labor to mechanical tasks requiring little intelligence or initiative. It is a proven fact that many employing interests insist upon the use of children as a condition of employment of adults. The adoption of differing rates of rental for company houses by certain mills has been a method of bringing about this result; houses where one "hand" lives being rented at a much higher rate than houses where two or three "hands" reside.

A third cause lies in the failure of the schools to hold the interest and attention of children and particularly their failure until recently to adequately take into consideration the needs of defective children, who fall behind in their studies, who become discouraged and leave school.

The growth of child labor in the United States is directly chargeable to a public indifference for which public ignorance is entirely responsible. As Professor Charles R. Henderson writes:

> "Ignorance obscures the vision of social value and of cost in parents . . . The arguments published by mill owners show that they are ignorant—I will not say wilfully ignorant—of the effects of factory and mill labor in England, Germany, France and all other older industrial nations. There is no other explanation of their neglect short of a charge of sheer brutality. Ignorance of the general public, of legislators, of teachers, of lawyers, of governors, of preachers and editors, is in great measure the cause of our criminal negligence as a people."

But, the causes of child labor, although illuminating the problem somewhat, are far less important to the present consideration than its effects. The causes may point the way to a solution, but the effects show the imperative need for action.

The Effects.

The effect of industrial labor upon the health of children presents the strongest indictment of a Government which permits such exploitation of its future citizens. Children are necessarily awkward. Their muscles are growing. Exhaustion by fatigue is inevitable from continuous labor. Accidents due to illiteracy, fatigue and incapacity to appreciate and understand dangers are very frequent. An investigation by the Minnesota Bureau of Labor, exhibited twice as many accidents for boys under sixteen as for adults and 33 times as many accidents for girls under sixteen as for adult women.

Growing boys and girls are peculiarly susceptible to occupational diseases. Sitting or standing in one posture, continual strain upon the muscles, nerves, and particularly upon the eyesight, develop physical deformities, for example, flat-foot and curvature of the spine. The mill boy working in a steam heated factory where the air is hot, or moist, or dust-laden, is most susceptible to nose, throat and lung troubles. Necessarily, the power of resistance to the ordinary diseases of childhood is lowered. The breaker boy, the glass factory boy, the children drafted into an amazing variety of industries involving work in a dust filled atmosphere or with poisonous acids, gases or dyes—all these are inevitably exposed with more or less certainty to disease and bodily injury. Even excepting the enormous number of cases of actual disease, deformity and permanent crippling that result from the employment of children, there is still left the terrible fact that all the thousands and thousands in the great army of child workers are absolutely denied the necessary conditions for normal physical development.

No argument is needed to show the illiteracy imposed upon future generations by the employment of children during the period when they

should be in school. It will doubtless amaze the average individual to learn that (according to Andrew S. Draper, Commissioner of Education of the State of New York):

> "In America . . . there are more people who cannot read or write in any language than there are in any other constitutional country in the world. In Chicago or New York there is a much larger percentage of people ten years old or more who can neither read nor write than there is in London, or Paris, or Berlin, or Zurich, or Copenhagen, or even Tokio . . . There is a larger percentage of illiterate children of native born than of foreign born parents in the State of New York. This statement is also true of Illinois. There is often a larger percentage of illiteracy in the country than in the cities."

Child labor has two notably disastrous effects upon industrial conditions. First, the industries employing children are low wage industries; the inevitable tendency of the small wages of the child being to hold wages down throughout the industry. In the second place, the employment of children means the unfitting of a large per cent. of the next generation of adults for skilled occupations. In Massachusetts it was found that 33% of the children who began work between fourteen and sixteen years were employed in unskilled industries, and 65% in low grade industries, leaving less than 2% in high grade industries. The results of the Douglas Investigating Commission in the same State showed the demoralizing influence of factory life upon boys and girls; their restless wandering from one job to another until past the period when they could properly be trained for any industry requiring skill and workmanship. To this may be added the report of the English Poor Law Commission to the effect that:

> "There is no subject as to which we have received so much and such conclusive evidence as upon the extent to which thousands of boys, from lack of any sort of training for industrial occupations, grow up, almost inevitably, so as to become chronically unemployed or under employed, and presently recruit the ranks of the unemployable."

The argument that child labor provides the necessary industrial training for children to fit them for profitable adult employment has been completely refuted by investigations of the facts. The training of children to become accustomed to monotonous tasks of unskilled labor at the sacrifice of mental and bodily growth at a time when they should be engaged in improving their minds and increasing their physical strength is the way to manhood inefficiency. The human product of such training will fall far below the average efficiency of the generation.

From the social point of view, the effects of child labor are most degrading. Child labor means family labor. The home becomes the sweatshop. There is no home in the sense in which the word should be used. The effect upon the moral standards of the child worker is definitely bad. The control of parents over their children is inevitably weakened, and the so-called home influence conspicuously absent. Many

employments in themselves tend directly to undermine the establishment of any moral standards. The investigation of the records of the Juvenile Courts of seven cities for one year showed that out of 8,797 offenses, working children were responsible for 5,471, and non-working children for 3,326. When one considers that a large majority of the children are not working, as is pointed out by the report, "this preponderance of offenses among the workers assumes impressive proportions."

Perhaps, the curse of child labor to the country, and its general effect upon the present children and future citizens is best summed up in the words of Senator Beveridge, when, after referring to the fact that he began physical labor before he was twelve, but that at least it was labor in the open air in the fields, on railroad grades, and in logging camps, he said:

> "In spite of all that, I do not like to think of the years from twelve to nineteen, because it makes me bitter. But suppose my work had not been in the open air? Suppose it had been in the cotton mills of Georgia, or the sweatshops of New York, or the glass factories of West Virginia, or on the breakers of the mines of Pennsylvania? Suppose I had been forced to breathe the poison and had acquired the low vices and habits which always result from such physical and nervous degeneracy. Even if, as it is, a senseless and unreasoning resentment begins to burn in my breast, what would have been my condition of mind if I had lived the life that the child slaves of America are living to-night?"

THE REMEDY.

The bill in the first section defines the labor of children in certain industries and under certain conditions as "anti-social child labor." The next section defines this phrase as "the employment of a child under fourteen years of age in any mill, factory, cannery, workshop, manufacturing or mechanical establishment, or of a child under sixteen years of age in any coal mine, coal breaker, coke oven, quarry, or in any establishment where poisonous or dangerous acids, gases, or dyes are used, manufactured, or packed, or in any establishment wherein the work done or materials or equipment handled are dangerous to the life and limb or injurious to the health or morals of such a child."

The unusual phrase "anti-social child labor" is used to give legislative expression to the intent of the proposed legislation: the protection of society from the stunting of future generations. The second section designates such labor as "detrimental to the general welfare and debasing to commerce," expressing the legislative intention to bring the proposed law within the power of Congress (recently sustained by the Supreme Court), to deny the right of interstate commerce to commodities so debasing to the community in production and trade as to be designated "outlaws of commerce."

The limitation of the scope of the measure is designed to avoid as far as possible, practical difficulties involved in the maintenance of an elaborate machinery of federal inspection. The present proposal is to establish a minimum standard and to insure its national enforcement.

The administrative provisions are:

Section 3. The Secretary of Labor shall make a public list of the businesses and industries affected together with a list of their products.

Section 4. Any manufacturer or producer may make affidavit that he does not employ the aid of anti-social child labor and be authorized by the Secretary of Labor to stamp or label his goods as registered under the act.

Section 5. No carrier shall transport and no manufacturer or jobber shall ship initially in interstate commerce, the products of anti-social child labor—provided that if goods so produced bear the label of registry all persons except the manufacturer are presumed to be ignorant of the use of child labor in their production.

Section 6. The Secretary of Labor after examination of the laws, shall certify what states have laws which "substantially prohibit and effectively prevent" anti-social child labor as defined—whereupon the provisions of the act shall not apply to such states.

Section 7. Unlawful shipment or transportation or a false affidavit is punished by fine of from $100 to $5,000 or imprisonment for not more than one year.

Section 8. A false statement to a common carrier concerning the fact of employment of child labor or whether the shipment is an initial shipment is made punishable by fine. A carrier is permitted to refuse to accept shipments where the shipper refuses to make such a written statement on demand.

The aims of these provisions are various: by administrative definition to make certain the businesses and products involved; by exemption of states having satisfactory standards and manufacturers who conform to the federal standards, to avoid unnecessarily elaborate administration and needless restrictions of commerce; by relieving carriers of responsibility when they take easy steps to protect themselves, to prevent vexatious interference with the business of interstate transportation.

A BILL.

To Further Regulate Interstate and Foreign Commerce by Prohibiting Interstate Transportation of the Products of Certain Forms of Child Labor, and for Other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the labor of children in certain industries and under certain conditions hereinafter described is hereby defined as antisocial child labor, and that this Act shall be known, referred to, and cited as the Federal child labor Act.

Sec. 2. That the employment of a child under fourteen years of age in any mill, factory, cannery, workshop, manufacturing or mechanical establishment, or of a child under sixteen years of age in any coal mine, coal breaker, coke oven, quarry, or in any establishment where poisonous or dangerous acids, gases, or dyes are used, manufactured, or packed or in any establishment wherein the work done or materials or equipment handled are dangerous to the life and limb or injurious to the health or morals of such a child is hereby designated and defined as antisocial child labor and as detrimental to the general welfare and debasing to commerce.

Sec. 3. That it shall be the duty of the Secretary of Labor, within six months after the passage of this Act, to classify and make public a list of such businesses or industries as are included within those described in section two of this Act, to-

gether with a list of the products of such businesses or industries; and it shall be the duty of the Secretary of Labor to revise from time to time said public list as the changing character of industrial establishments or additional information received by the Secretary of Labor shall warrant and require.

SEC. 4. That any person, firm, or corporation which owns or operates a business or establishment designated in section two of this Act and included within those businesses or industries listed by the Secretary of Labor as herein required, may make or cause to be made by his duly authorized agent an affidavit to the effect that no antisocial child labor is employed in his business or establishment, and that the products thereof are not produced with the aid of antisocial child labor. When such an affidavit in the form duly approved by the Secretary of Labor is filed with the Secretary of Labor, the Secretary of Labor shall issue a certificate to the maker of the said affidavit, or to the person, firm, or corporation in whose behalf said affidavit is made, giving authority to said person, firm, or corporation to stamp or label the goods and products of such business or establishment in the following manner: "Registered under the Federal child labor Act, Serial No. ——." The serial number certified by the Secretary of Labor shall be the number given to the affidavit on file by virtue of which said certificate is made as herein provided.

SEC. 5. That six months from and after the passage of this Act no carrier of interstate commerce shall knowingly accept for initial interstate transportation or knowingly transport initially in interstate commerce the goods or products of any business or establishment described in section two of this Act and included within those businesses or industries listed by the Secretary of Labor as herein provided which have been made with the aid of antisocial child labor or have been made in any business or establishment in which antisocial child labor is employed; and no jobber, wholesaler, manufacturer, producer, or other dealer in such goods and products shall knowingly make initial shipment or knowingly offer for initial shipment in interstate commerce any such goods or products so made: *Provided, however,* That in case any such goods or products the interstate transportation whereof is hereby prohibited shall be presented for transportation and transported, stamped and labeled "Registered under the Federal child labor Act, Serial No. ——," as provided in section four of this Act, the carrier, jobber, wholesaler, or other dealer in such goods or products, excepting the manufacturer or producer thereof, responsible for such interstate transportation shall be presumed to have been ignorant of the fact that such goods or products were of the character prohibited by this Act.

Sec. 6. That within six months from and after passage of this Act the Secretary of Labor shall examine the laws of the several States relating to the employment of child labor and give public notice and certify to the governor of each of the several States whether or not, in the opinion of the Secretary of Labor, the law of each particular State substantially prohibits and effectively prevents antisocial child labor as herein defined; and the Secretary of Labor shall from time to time make such revision of his certificate regarding the laws of the several States as the changes therein, or additional information by him received, shall warrant or require; and for the purposes of this Act the judgment and decision of the Secretary of Labor as to whether the laws of a particular State substantially prohibit and effectively prevent antisocial child labor as herein defined shall be final. The provisions of this Act prohibiting interstate transportation of the products of antisocial child labor as herein defined shall not apply either to the carrier of intertate commerce or to the manufacturer, producer, jobber, wholesaler, or other dealer offering for interstate transportation, or accepting for or transporting in interstate transportation, any initial shipment from a State certified by the Secretary of Labor as prohibiting and preventing antisocial child labor into any other State or Territory.

Sec. 7. That any officer or agent of any carrier of interstate commerce, or of any person, firm, or corporation, or any other person who knowingly is a party to any violation of this Act, or who knowingly violates any provision of this Act, shall be punished for each offense by fine of not more than $5,000 nor less than $100, or by imprisonment for not more than one year, or by both said fine and imprisonment, in the discretion of the court. Any person making affidavit to the Secretary of Labor, as provided in section three, and making a false statement in such affidavit, or any person stamping or labeling goods or products in the manner provided in section four of this Act, without authority from the Secretary of Labor as provided in said

section, shall be punished by fine not exceeding $5,000 nor less than $100, or by imprisonment not exceeding one year, or by both said fine and imprisonment, in the discretion of the court.

Sec. 8. That any person required, for the protection of a carrier of interstate commerce, to make a written statment as to whether or not goods or products are offered for initial shipment as herein defined, or have been produced with the aid of antisocial child labor, who knowingly makes a false statement in writing in response to such inquiry, shall be fined not exceeding $5,000 nor less than $100; and any carrier of interstate commerce is hereby empowered and permitted to refuse to accept for interstate transportation any goods or products regarding which the shipper refuses to make such written statement upon demand of said carrier.

Sec. 9. That the term " interstate transportation" as used in this Act is hereby defined as all transportation which is a part of interstate commerce comprised within the term "commerce among the several States" as used in the Constitution of the United States. The term "business or establishment" as used in this Act is hereby defined as any place where work is done for compensation of any sort. The word "person" as used in this Act is hereby defined to include any individual, male or female, any partnership or other unincorporated or incorporated organization, or any municipality, public or private institution or organization. The masculine pronoun wherever used in this Act shall include other genders, and the singular number shall include the plural. The term "goods or products" shall include any substance, article, or chattel of any kind made or produced or upon which or in connection with which any kind of work is done in any business or establishment as defined in this Act. The term "initial shipment" or "initial transportation" or similar terms as used in this Act is hereby defined as the first shipment or transportation of goods or products in interstate transportation subsequent to their production or manufacture.

CONVICT LABOR

THE PLEDGE.

"The supreme duty of the nation is the conservation of human resources through an enlightened measure of social and industrial justice. We pledge ourselves to work unceasingly in state and nation for:—

* * * * *

"The abolition of the convict contract labor system; substituting a system of prison production for governmental consumption only; and the application of prisoners' earnings to the support of their dependent families."

—Progressive National Platform.

THE FULFILMENT.

H. R. 7755. Introduced by Representative John I. Nolan, of California, August 26, 1913. Referred to the Committee on Interstate and Foreign Commerce.

Prohibition of Interstate Transportation of Products of Convict Labor

THE NEED.

There is a twofold purpose in the enactment of legislation to prevent interstate transportation of convict made goods.

First.—The indirect result:

By making convict labor less profitable to prison contractors, political pressure against the abolishment of the contract labor system in the various state institutions will be somewhat relieved. The most casual investigation of the evils of the lease, contract and piece-price systems will convince any intelligent person of the inevitably vicious results to the prisoners from a slavery where the task master has not even a financial interest in the health and future of his slaves—but is concerned only in getting the most work out of them, in the shortest time, at the least expense.

Second.—The direct result:

By removing the unfair competition of convict made goods from interstate commerce, the value of the products of free labor and therefore the value of free labor itself is enhanced.

Both employer and employe are interested in preventing this unfair competition. In a Congressional report made as long ago as 1906, it was stated that the United States Bureau of Labor "found manufacturers practically a unit in favoring a Federal law prohibiting interstate commerce in prison made goods," and the same report pointed out that "the state legislatures are generally willing to enact such legislation for their several states (prohibiting the selling of prison made goods in competition with the products of free labor) but for the fact always emphasized by the prison wardens that a state law would not prevent the shipping into the state of prison made goods from other states. In other words, the state, in endeavoring to protect its manufacturers and laborers from the competition of prison made goods can only succeed, by withdrawing its own competition, in making the state a better market for the prison made goods of other states." An analysis of convict made goods for the year 1903 to 1904, showed 27% sold within the state of production, 51% sold without the state and 19% used in public institutions.

The results of convict labor have been shown to be "demoralizing to markets, and business stability, compelling the reduction of prices below a fair margin of profit and even the sale of goods without profit, while also forcing the reduction of wages in vain efforts to lower the cost of production to that of the prison contractor."

A startling example of the evil effect of contract convict labor is shown in the statement put out by a well known furniture concern which utilizes convict labor, in support of its offering of preferred stock:

> "This company pays for its labor, 52c per man per day. This company is supplied free of rent with a factory, with a storage warehouse and grounds inside the prison walls and with free heat, light and power. To acquire similar facilities as this company has obtained free with its contracts, would necessitate additional investment of approximately One Million Dollars. Having to make no investment for factory buildings, storage warehouses, light, heat or power, the company's funds are kept actively engaged in liquid assets such as raw materials, finished goods and accounts receivable."

From the standpoint of the competing capitalist and wage earner there is something peculiarly unfair in the use by the state of its criminals to put profits in the pockets of a few greedy exploiters at the expense of honest workmen, and of the manufacturers and the producers who furnish them employment. The State, supported by the taxation of profitable business, uses its revenues to gather together in a prison those who are supposed to have preyed upon well-ordered society, and then turns the establishment over to a few ruthless political parasites to destroy law-abiding business and to deprive law-abiding workmen of their livelihood. It is a monstrous satire on sane, efficient government.

The evils of contract convict labor from the standpoint of the convict are many and bitter. He seldom acquires a useful trade (witness the knitting machine work of Wisconsin convicts) and the Congressional report asserts that: "His prison record is a complete bar to his admission to the ranks of non-convict skilled laborers or mechanics." The abuses of any system whereby private profits are made by the employment of enslaved labor, are obvious. The speeding up of prisoners to the limit of human endurance, and the enforcement of discipline by barbaric measures are by-products of a system which is rotten at the roots. It is inevitable that, even under best conditions, the excess compensation earned by a convict for the support of his dependent family will be practically negligible.

But outside of all question of injustice, of brutalization, of moral and physical ruin of the convicts themselves, there is the enormous harm done to commercial interests, to manufacturers and free laborers all for the benefit of a few wealthy and powerful prison contractors. The present bill is not for the benefit of a class but for the general benefit of the public at the expense of only a very small class of social vultures.

It is an interesting commentary upon both the power of Congress to enact this legislation and the need for its enactment, that by the Dingley Act, the McKinley Act, the Payne-Aldrich Act, and the Underwood Act, Congress has prohibited the importation into this country of foreign convict made goods. The same power and similar reasons would seem to sustain the validity and merit of the present bill.

THE REMEDY

The purpose of the bill is stated in the first section, "to prevent unfair competition in interstate commerce between the products of convict labor and the products of free labor.

Section 2 defines the products of convict labor to include "all goods, wares and merchandise manufactured, packed, produced or mined wholly or in part by the labor of convicts in any prison or reformatory."

Section 3 prohibits the interstate transportation of such goods by a carrier or the interstate shipment by a producer or dealer.

Under Section 4 it is the duty of the Secretary of Labor to make a public report of the penal institutions using convict labor including the names and addresses of all contractors and dealers in such products, so far as obtainable.

Under Section 5 it is the duty of the Secretary of Labor to send a copy of the report to all penal institutions and users of convict labor named in the report and to all carriers of interstate commerce, upon their request.

According to the provision of Section 6 it is possible for any person dealing in convict made goods to make affidavit that other goods in which he deals are not convict made and upon filing of such affidavit with the Secretary of Labor obtain the right to stamp or label such goods "Registered under the Federal Convict Labor Act, Serial Number ....," thereby relieving commerce of unnecessary restrictions since under Section 7 it is provided that carriers or jobbers handling goods so labelled (excepting the person responsible for false labelling) are relieved of responsibility for their character.

Section 8 further reduces the amount of administration necessary by providing that the provisions of the Act shall not apply to shipments made from states whose laws "restrict prison production or the use of convict labor to products for state, county or municipal consumption only." This relieves carriers and dealers in such states from the responsibilities imposed by the bill.

Sections 9, 10 and 11 provide penalties for violation of the Act or falsely labelling goods and products or for making false affidavits under the provisions of the Act and include definitions of the various important terms and phrases used in the Act.

A BILL.

To Further Regulate Interstate and Foreign Commerce by Prohibiting Interstate Transportation of the Products of Convict Labor, and for Other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to prevent unfair competition in interstate commerce between the products of convict labor and the products of free labor the interstate transportation of all products of convict labor is hereby prohibited.

Sec. 2. That the term "products of convict labor" is hereby defined to include all goods, wares, and merchandise manufactured, packed, produced, or mined, wholly or in part, by the labor of convicts or in any prison or reformatory.

Sec. 3. That six months from and after the passage of this Act no carrier of interstate commerce shall knowingly accept for initial interstate transportation

or knowingly transport initially in interstate commerce the products of convict labor; and no jobber, wholesaler, manufacturer, producer, or other dealer in such products shall knowingly make initial shipment, or knowingly offer for initial shipment in interstate commerce any such goods or products so made.

Sec. 4. That within six months from and after the passage of this Act the Secretary of Labor shall investigate and make public a report concerning the name and location of every prison, reformatory, or other penal institution wherein or under the direction of which convict labor is used in the production of goods which are to be or may be transported in interstate commerce. Such report shall include the names and addresses of all contractors, wholesalers, or other dealers dealing in such products, whose names and addresses the Secretary of Labor is able to ascertain upon diligent inquiry, and it shall be the duty of the Secretary of Labor to revise from time to time said public report as additional information received by the Secretary of Labor shall warrant and require. It shall be the duty of the public officials in charge of every such prison, reformatory, or other penal institution to furnish the Secretary of Labor all information necessary for his report; and in case of the refusal or failure of any such public official to reply fully and truthfully to inquiries made by the Secretary of Labor as herein required, the Secretary of Labor or any duly authorized person acting in his behalf is hereby empowered to invoke the aid of any district court in the United States having jurisdiction in said district wherein such aid is required for an order directing said public official to make a full and truthful answer to said inquiries of the Secretary of Labor, and jurisdiction is hereby granted to such district courts of the United States to issue upon petition of the Secretary of Labor, or upon petition of any person duly authorized and acting in his behalf, the necessary processes and writs to compel full and truthful answers to said inquiries of the Secretary of Labor, and any failure to obey the order of the court may be punished by such court as contempt thereof.

Sec. 5. That it shall be the duty of the Secretary of Iabor to transmit, upon publication, a copy of the report made by him as provided in section four of this Act, and a copy of all revisions thereof, to every prison, reformatory, or other penal institution and every contractor, wholesaler, or other dealer named in such report or in any revision thereof. It shall also be the duty of the Secretary of Labor to transmit a copy of such report, or any revision thereof, to any carrier of interstate commerce upon the request of any such carrier. Every person, individual, or institution named in such report and every carrier of interstate commerce shall be presumed to have knowledge of the use of convict labor in connection with goods or products produced or dealt in by any person named in such report or in any revision thereof.

Sec. 6. That any contractor, wholesaler, or other dealer dealing in the products of convict labor, and who is included within those listed in the public report made by the Secretary of Labor as herein required, may make, or cause to be made by his duly authorized agent, an affidavit to the effect that any other particular goods, wares, or other merchandise in which such contractor, wholesaler, or other dealer may deal are not produced with the aid of convict labor and are not the products of any prison or reformatory. When such an affidavit, in the form duly approved by the Secretary of Labor, is filed with the Secretary of Labor, the Secretary of Labor shall issue a certificate to the maker of the said affidavit, or to the person in whose behalf such affidavit is made, giving authority to said contractor, wholesaler, or other dealer to stamp or label the goods or products designated as not produced with the aid of convict labor in the following manner: "Registered under the Federal Convict-Labor Act, Serial Number —." The serial number certified by the Secretary of Labor shall be the number given to the affidavit on file by virtue of which said affidavit is made as herein provided.

Sec. 7. That in case any products of convict labor the interstate transportation of which is hereby prohibited shall be presented for transportation and transported, stamped, or labeled "Registered under the Federal Convict-Labor Act, Serial Number —," as provided in section six of this Act, the carrier, jobber, wholesaler or other dealer in such products responsible for such interstate transportation, excepting the person, contractor, wholesaler, or other dealer who has falsely so stamped or labeled such products, shall be presumed to have been ignorant of the fact that such products were of a character prohibited in interstate transportation by this Act.

Sec. 8. That within six months from and after the passage of this Act the

Secretary of Labor shall examine the laws of the several States relating to convict labor, and shall give public notice and designate those States which restrict prison production or the use of convict labor to products for State, county, or municipal consumption only; and the Secretary of Labor shall from time to time make such revision in said designations regarding the laws of the several States as the changes therein shall warrant or require. The provisions of this Act prohibiting interstate transportation of the products of convict labor as herein defined shall not apply either to the carrier of interstate commerce or to any person offering for interstate transportation or accepting for or transporting in interstate transportation any initial shipment from a State which restricts prison production or the use of convict labor to products for State, county, or municipal consumption only.

Sec. 9. That any officer or agent of any carrier of interstate commerce, or of any person, firm, or corporation, or any other person who knowingly is a party to any violation of this Act, or who violates any provision of this Act, shall be punished for each offense by a fine of not more than $5,000 nor less than $100, or by imprisonment for not more than one year, or by both said fine and imprisonment, in the discretion of the court. Any person making affidavit to the Secretary of Labor as provided in section six of this Act, and making a false statement in such affidavit, or any person stamping or labeling goods or products in the manner provided in section six of this Act, without authority from the Secretary of Labor as provided in said section, shall be punished by a fine not exceeding $5,000 nor less than $100, or by imprisonment not exceeding one year, or by both said fine and imprisonment, in the discretion of the court.

Sec. 10. That any person required, for the protection of a carrier of interstate commerce, to make a written statement as to whether or not goods or products are offered for initial shipment as herein defined, or have been produced with the aid of convict labor, who knowingly makes a false statement in writing in response to such inquiry shall be fined not exceeding $5,000 nor less than $100; and any carrier of interstate commerce is hereby empowered and permitted to refuse to accept for interstate transportation any goods or products regarding which the shipper refuses to make such written statement upon demand of said carrier.

Sec. 11. That the term "interstate transportation" as used in this Act is hereby defined as all transportation which is a part of interstate commerce comprised within the term "commerce among the several States" as used in the Constitution of the United States. The word "person" as used in this Act is hereby defined to include any individual, male or female, any partnership or other unincorporated or incorporated organization, or municipality, public or private institution or organization. The singular number wherever used in this Act shall include the plural. The words "goods" or "products" as used in this Act shall include any substance, article, or chattel of any kind made or produced or upon which or in connection with which any kind of work is done by convicts or in any prison or reformatory. The term "initial shipment" or "initial transportation" or similar term as used in this Act is hereby defined as the first shipment or transportation of goods or products in interstate transportation subsequent to the use of convict labor in connection with such goods or products.

Workmen's Compensation for Federal Employees

THE PLEDGE.

"The supreme duty of the nation is the conservation of human resources through an enlightened measure of social and industrial justice. We pledge ourselves to work unceasingly in state and nation for:—

* * * * *

"Standards of compensation for death by industrial accident and injury and trade diseases which will transfer the burden of lost earnings from the families of working people to the industry, and thus to the community."

—Progressive National Platform.

THE FULFILMENT.

H. R. 7026. Introduced by Representative Arthur R. Rupley of Pennsylvania, July 22, 1913. Referred to the Committee on Labor.

Workmen's Compensation for Federal Employees

THE NEED.

Under modern industrial conditions the relations of employer and employee are vastly different from the ancient obligations which are the basis of the common law "of master and servant." The very nomenclature indicates the personal dealings of the bootmaker and the stage-coach owner with his wage-earners. The shoe factory with its regiment of employees and the transcontinental railroad with its army, give rise to new problems in which society as a whole must be considered.

The U. S. Bureau of Labor estimates that there are annually 30,000 persons killed and over 1,000,000 victims of non-fatal accidents in industrial establishments.

Manifestly some one must pay for this economic loss. A humanitarian social order will not tolerate community indifference to the sufferings of the maimed and diseased, or to the helpless misery of their dependents, nor should the inevitable burdens of a self-respecting community be carried by private charity. To suggest that the workman insure is simply to lay the burden on the class engaged in the industry least able to bear it. The owner of the business, not the employee, should bear all the costs of production, reimbursing himself for his expenditures in the price of the product. The losses to workmen due to trade accidents and trade diseases are part of the necessary cost of production. Workmen's Compensation laws, which in effect carry to the consumer the cost of injuries to the workmen, as a fixed charge upon the industry, are now generally accepted as the best solution of the problem.

Automatically, an industry too costly in its human toll to be supported by the community ceases to exist. Automatically, competitive conditions force a decrease in the overhead charge of human misery in a plant operated recklessly or without proper safeguarding of health.

Safety appliance laws may be difficult to pass and to enforce but a law whereby a dangerous machine is certain to be an expensive machine is itself a safety appliance law of great efficiency. The cost of wire netting over a whirring wheel, or of boxing around a swift belt is a trifle compared to the cost of paying reasonable and sure compensation to the one injured by such neglect.

Of course employer's liability exists prior to the passage of compensation laws, but employer's liability has offered the employer a gamble instead of a certainty. The fellow-servant rule, the doctrine of assumed risk, the various technical difficulties in proving negligence, to say nothing of the expense and delay in legal proceeding have all encouraged the employer "to take a chance," or, when the employer resorted to liability insurance, have permitted the insurance companies to fix rates for profits

on the absurdities and partialities of the law. This consideration leads naturally to the second great service of compensation laws, the practical elimination of middleman profits in the adjustment of a loss.

Where a claim must be litigated, the claimant who receives 50% of the amount which the employer pays may be regarded as fortunate. Two illustrations may make this plain.

A typical case is given in Senate Document 131, 63rd Congress, 1st session:

Accident	Railroad engineer killed
Dependents	Widow and three children
Time of litigation	Three years
Amount of judgment	$10,000
Additional cost to Railroad	2,500
Cost to the State (Judge, jury, etc.)	525
Total	$13,125
Received by widow (50% of judgment)	5,000
Cost to Railroad and State to transfer $5,000 from Railroad to the widow	$8,125

(It should be noted that as the widow probably paid the costs of the proceedings, records, briefs, etc., she probably received much less than $5,000, while her loss of three years' interest alone was $450.00.)

The report of the Legislative Committee in Wisconsin (1911) on Workmen's Compensation shows the following waste of money in accident insurance. For convenience the transfer of $1,000 is shown.

	1904.	1908.
Paid by employers to insurance companies	$1,000.00	$1,000.00
Paid by insurance companies to injured employees	290.00	500.00
Expense for employees in litigation	116.00	200.00
Net amount received for injuries	$ 174.00	$ 300.00

These figures mean that under best conditions the injured employee received only $300 of $1,000 paid by the employer, $700 being paid to those who transferred the money. Under worst conditions it cost the employer $1,000 to pay his injured employee $174; $826 being paid to the middlemen.

In a large measure State legislation is required to carry out the principles of Workmen's Compensation. But the Federal Government should do its part in the passage of two bills:

A bill extending workmen's compensation to all workmen engaged in interstate commerce. It is expected that a progressive measure to accomplish this purpose will result from preparatory work now in progress.

A bill extending workmen's compensation to federal employees. This is the bill which is presented herewith.

Many of the considerations which are important to the discussion of private employment do not apply directly to government service and hence are not applicable to the bill introduced by Congressman Rupley. Yet it is of importance that the Government of the United States should set an example to private employers. The Government should be the first to fulfill obligations of social responsibility. The Government is a huge business. Its department heads may have the same tendencies toward false economy that private superintendents exhibit. Dangerous appliances, and unsanitary conditions may be permitted unless the inevitable costliness forces both the administrative and legislative officials to provide safe and healthful conditions for labor. And delays and expense in proceedings to obtain compensation from the Government are as notorious as in litigations against private employers. So that in the main the accepted arguments for workmen's compensation laws provide most substantial reasons for the passage of the present bill.

While this exposition has dealt largely with accidents it should be noted that the bill covers also occupational diseases, those disabilities whose cost is so obviously a proper charge upon the industry responsible.

A special statement should be made regarding the drafting of this measure. It is in no sense a partisan document. The bill was drawn by Middleton Beaman of the Legislative Drafting Bureau at Columbia University at the request of the American Association for Labor Legislation. It was introduced in the Senate by Senator Kern, a Democrat and in the House by Congressman Rupley, a Progressive. It has the approval of the leading experts on this variety of legislation and is fully worthy of the support of all members of Congress and of the public, without regard to politics, occupation or previous condition of prejudice.

THE REMEDY.

(Summary of Kern-Rupley Bill prepared by its draftsman Middleton Beaman.)

What Employees Granted Compensation.

All civilian officers and employees of the United States except of the Panama Canal, Isthmian Canal Commission and Panama Railroad Company. (Panama is covered by a special statute.)

For What Compensation is Granted.

The bill provides compensation for *disability lasting more than three days or death* of an employee, resulting from *personal injury* sustained in the course of his employment, irrespective of accident, or from an *occupational disease* contracted in the course of his employment. It also provides compensation in case employee is suspended from work in order to prevent his disability from an occupational disease.

No compensation is allowed if the injury is caused by the employee's intention to bring about the injury or death of himself or of another.

Amount of Compensation—Disability Payments.

Total disability: 66⅔% of the monthly pay during the continuance of disability, not to exceed $66.67 a month, and not less than $33.33, unless employee's monthly pay is less than $33.33, in which case compensation is full pay.

Partial disability: 66⅔% of the difference between the monthly pay at the time of the injury and the monthly wage-earning capacity after the beginning of the partial disability, not to exceed $66.67 per month. If the employee refuses to work after suitable work is furnished to or secured for him by United States, no compensation is allowed while the refusal continues.

No compensation for first three days of disability.

If employee has unused annual or sick leave he may, subject to approval of head of department, substitute it for compensation until used up.

Transportation of injured employee to his home or place of residence or place where he reported for work (in discretion of administrative officials).

Medical, surgical and hospital services and supplies for a reasonable time and in a reasonable amount.

Death Payments.

To the widow, if no child, 35% of monthly pay of deceased employee until death or marriage. In case of marriage lump sum equal to three years' compensation.

To widower, if no child, 35% if wholly dependent and a proportionate amount if partly dependent, payable until death or marriage.

To widow or widower, if there is a child, the above amounts and in addition 10% for each child not to exceed to total of 66⅔% for widow or widower and children. Compensation on account of any child ceases when he dies, marries or reaches eighteen or if over eighteen and incapable of self-support becomes capable of self-support.

To the children, if no widow or widower, 25% for one child and 10% additional for each additional child not to exceed a total of 66⅔%. Compensation of each child ceases when he dies, marries or reaches eighteen, or if over eighteen and incapable of self-support becomes capable of self-support.

To the parents, 25% for one wholly dependent and 40% if both wholly dependent. Proportionate amount if partly dependent. These percentages paid if no widow, widower or child. If there is a widow, widower or child, parents receive so much of these percentages as when added to total percentages payable to widow, widower and children will not exceed total of 66⅔%.

To brothers and sisters, grandparents and grandchildren 20% if one wholly dependent and 30% if more than one. If no one wholly dependent and one or more partly dependent 10% divided share and share alike. These percentages paid if no widow, widower, child or dependent parent. If there is a widow, widower or child or dependent parent there shall be paid so much of these percentages as when added to total percentages

payable to widow, widower, children and dependent parent will not exceed total of 66⅔%.

Payments to last two classes continue for eight years from the time of the death of the injured employee unless before that time the beneficiary dies, marries, or ceases to be dependent or reaches eighteen or if over eighteen and incapable of self-support becomes capable of self-support.

In computing compensation in case of death, the monthly pay of the injured employee shall be considered not to be more than $100 nor less than $50 but total monthly death payments shall not exceed the actual monthly pay of the employee.

Burial expenses up to $100 and transportation of body to home in discretion of administrative officials.

Commutation Into Lump Sum.

In case of death or permanent disability, administrative officials may commute periodical payments into a lump sum equal to two-thirds of all future payments if the beneficiary is or is about to become a non-resident of the United States or it is for the best interests of the beneficiary. In estimating such lump sum, the probability of the beneficiary's death shall be determined according to mortality tables but the probability of the happening of any other contingency shall be disregarded.

Notice of Injury.

No liability for compensation unless written notice within 48 hours after the injury or death unless the administrative officials find reasonable cause for notice given later.

Claim for Compensation.

No compensation allowed to any person unless he makes a claim within sixty days after the beginning of disability or within one year after the death but administrative officials may for reasonable cause allow claim to be filed later. Claim must be made on forms furnished by administrative officials, must contain all information required by them, and must be sworn to.

Medical Examination.

Injured employee required to submit to medical examination at request of administrative officials and no compensation payable so long as refusal to submit to examination continues.

If employee, about to enter service in connection with work in which he would be subject to the risk of contracting an occupational disease, discloses on examination symptoms of such disease or physical condition rendering him likely to contract such disease, he shall not be appointed to any position connected with such work.

Any employee performing any work which subjects him to risk of contracting an occupational disease shall be examined from time to time and if he is found to have an occupational disease he may, although not disabled, be suspended from work and paid compensation as for total disability.

Third Person's Liability.

If the injury or death for which compensation is payable is caused by the negligence of some person other than the United States and if a beneficiary entitled to compensation pursues his right of action against such other person, he is required to credit upon compensation due from the United States the amount received from such other person.

Administrative Features of Bill.

The Bill provides for a commission, composed of three commissioners appointed by the President with the advice and consent of the Senate at a salary of $5,000 each, and with such assistants as Congress may from time to time provide to be appointed by the commission solely with regard to fitness to perform their duties.

The commission is authorized to make necessary rules and regulations for the enforcement of the act and to decide all questions arising under the act. The commission is to submit a report annually to Congress and is to submit annually to the Secretary of the Treasury estimates of the appropriations needed

Funds for Payment of Compensation.

The Bill establishes a separate fund in the Treasury to be known as the Employees' Compensation Fund. The Bill appropriates $800,000 to establish this fund and provides that there shall be added to it such sums as Congress may from time to time appropriate. The commission is to submit annually to the Secretary of the Treasury estimates of appropriations needed for the maintenance of the fund.

Prevention of Accidents and Occupational Diseases.

The commission is required to study the causes of accidents and occupational diseases among civilian employees of the government, to report annually to Congress the results of its investigations, and to make such recommendations as it may deem proper to the various departments as to the best means of preventing accidents and occupational diseases.

A BILL.

To Provide Compensation for Employees of the United States Suffering Injuries or Occupational Diseases in the Course of Their Employment, and for Other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States shall pay compensation as hereinafter specified for the disability or death of an employee resulting from a personal injury sustained in the course of his employment, and for the disability, death, or suspension from work of an employee resulting from an occupational disease contracted in the course of his employment; but no compensation shall be paid if the injury, death, or occupational disease is caused by the employee's intention to bring about the injury or death of himself or of another.

Sec. 2. That during the first three days of disability the employee shall not be entitled to compensation, except as provided in section ten. No compensation shall at any time be paid for such period.

Sec. 3. That if the disability is total the United States shall pay to the disabled employee during such disability a monthly compensation equal to sixty-six and two-thirds per centum of his monthly pay.

Sec. 4. That if the disability is partial the United States shall pay to the disabled employee during such disability a monthly compensation equal to sixty-six and two-thirds per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability. The commission may, from time to time, require a partially disabled employee to make an affidavit as to the wages which he is then receiving. In such affidavit the employee shall include a statement of the value of housing, board, lodging, and other advantages which are received from the employer as a part of his remuneration and which can be estimated in money. If the employee, when required, fails to make such affidavit he shall not be entitled to any compensation while such failure continues, and the period of such failure shall be deducted from the period during which compensation is payable to him.

Sec. 5. That if a partially disabled employee refuses to work after suitable work is furnished to or secured for him by the United States he shall not be entitled to any compensation while such refusal continues, and the period of such refusal shall be deducted from the period during which compensation is payable to him.

Sec. 6. That if, as a result of any physical examination authorized by section twenty-five, any employee is found to have contracted any occupational disease, he may, in the discretion of the commission, although not disabled, be suspended from work until such time as, in the opinion of the commission, it is safe for him to return to work. During such suspension the United States, if he has contracted the disease in the course of his employment, shall pay to him a monthly compensation equal to sixty-six and two-thirds per centum of his monthly pay. If, after the expiration of a reasonable time, it is decided by the commission that his return to his regular work would probably result in his disability from such disease, he shall be considered as disabled, and thereafter the United States, if he has contracted the disease in the course of his employment, shall pay to him compensation as for total or partial disability, as the case may be.

Sec. 7. That the monthly compensation for total disability or for suspension from work shall not be more than $66.67 nor less than $33.33, unless the employee's monthly pay is less than $33.33, in which case his monthly compensation shall be the full amount of his monthly pay. The monthly compensation for partial disability shall not be more than $66.67.

Sec. 8. That as long as the employee is in receipt of compensation under this Act, or, if he has been paid a lump sum in commutation of installment payments, until the expiration of the period during which such installment payments would have continued, he shall not receive from the United States any salary, pay, or remuneration whatsoever except in return for services actually performed.

Sec. 9. That if at the time the disability or suspension from work begins the employee has annual or sick leave to his credit, he may, subject to the approval of the head of the department, use such leave until it is exhausted, in which case his compensation shall, in the case of suspension from work, begin immediately after the annual or sick leave has ceased, and in the case of disability begin on the fourth day of disability after the annual or sick leave has ceased.

Sec. 10. That immediately after an injury sustained by an employee in the course of his employment, whether or not disability has arisen, and for a reasonable time thereafter, and immediately after the beginning of disability or of suspension from work due to an occupational disease contracted by an employee in the course of his employment, and for a reasonable time thereafter, the United States, whenever practicable, shall furnish to such employee reasonable medical, surgical, and hospital services and supplies unless he refuses to accept them. Such services and supplies shall be furnished by United States medical officers and hospitals, but where this is not practicable shall be furnished by private physicians and hospitals designated or approved by the commission and paid for from the employees' compensation fund.

Sec. 11. That if at the time of the beginning of the disability the employee is away from his home or usual place of residence, the United States shall, in the discretion of the commission, furnish him transportation thereto or to the place where he reported for work, if such home or place is within the United States.

Sec. 12. That if death results from the injury or from the occupational disease within six years after the injury or the beginning of disability or suspension from work due to such disease, the United States shall pay to the following persons for the following periods a monthly compensation equal to the following percentages of the deceased employee's monthly pay:

(A) To the widow, if there is no child, thirty-five per centum. This compensation shall be paid until her death or marriage. In case of marriage, there shall be paid to her a lump sum equal to thirty-six months' compensation.

(B) To the widower, if there is no child, thirty-five per centum if wholly dependent for support upon the deceased employee at the time of her death, and such proportionate amount as the commission deems proper if partly dependent. This compensation shall be paid until his death or marriage.

(C) To the widow or widower, if there is a child, the compensation payable under clause (A) or clause (B) and in addition thereto ten per centum for each child, not to exceed a total of sixty-six and two-thirds per centum for such widow or widower and children. The compensation payable on account of any child shall cease when he dies, marries, or reaches the age of eighteen, or, if over eighteen, and incapable of self-support, becomes capable of self-support.

(D) To the children, if there is no widow or widower, twenty-five per centum for one child and ten per centum additional for each additional child, not to exceed a total of sixty-six and two-thirds per centum, divided among such children, share and share alike. The compensation of each child shall be paid until he dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. The compensation of a child under legal age shall be paid to its guardian.

(E) To the parents, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per centum; if both are wholly dependent, twenty per centum to each; if one is or both are partly dependent, a proportionate amount in the discretion of the commission.

The above percentages shall be paid if there is no widow, widower, or child. If there is a widow, widower, or child, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of sixty-six and two-thirds per centum.

(F) To the brothers, sisters, grandparents, and grandchildren, if one is wholly dependent upon the deceased employee for support at the time of his death, twenty per centum; if more than one are wholly dependent, thirty per centum, divided among them share and share alike; if there is no one of them wholly dependent, but one or more partly dependent, ten per centum divided among them share and share alike.

The above percentages shall be paid if there is no widow, widower, child, or dependent parent. If there is a widow, widower, child, or dependent parent, there shall be paid so much of the above percentages as, when added to the total percentage payable to the widow, widower, children, and dependent parents, will not exceed a total of sixty-six and two-thirds per centum.

(G) The compensation of each beneficiary under clauses (E) and (F) shall be paid for a period of eight years from the time of the death, unless before that time he, if a parent or grandparent, dies, marries, or ceases to be dependent, or, if a brother, sister, or grandchild, dies, marries or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. The compensation of a brother, sister, or grandchild under legal age shall be paid to his or her guardian.

(H) As used in this section, the term "child" includes stepchildren, adopted children, and posthumous children, but does not include married children. The terms "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters. All of the above terms and the term "grandchild" include only persons who at the time of the death of the deceased employee are under eighteen years of age or over that age and incapable of self-support. The term "parent" includes step-parents and parents by adoption. The term "widow" includes only the decedent's wife living with or dependent for support upon him at the time of his death. The term "widower" includes only the decedent's husband dependent for support upon her at the time of her death.

(I) Upon the cessation of compensation under this section to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

(J) In computing compensation under this section, the monthly pay shall be considered not to be more than $100 nor less than $50, but the total monthly compensation shall not exceed the monthly pay computed as provided in section fourteen.

Sec. 13. That if death results from the injury or from the occupational disease within six years after the injury or the beginning of disability or suspension from work due to such disease, the United States shall pay to the personal representative of the deceased employee burial expenses not to exceed $100, in the discretion of the commission. In the case of an employee whose home is within the United States, if his death occurs away from his home office or outside of the United States, and if transportation has not been furnished the employee under section eleven before his death and if so desired by his relatives, the body shall, in the discretion of the commission, be embalmed and transported in a hermetically sealed casket to the home of the employee.

Sec. 14. That "monthly pay" shall be computed as follows:

(A) If the employee is paid by the year, divide his yearly pay at the time of the injury by twelve;

(B) If the employee is paid by the month, take his monthly pay at the time of the injury;

(C) If the employee is paid by the week, multiply his weekly pay at the time of the injury by fifty-two and divide the result by twelve;

(D) If the employee is paid by the day, multiply his daily pay at the time of the injury by twenty-six;

(E) If the employee is paid by the hour, multiply his hourly pay at the time of the injury by the number of hours constituting a day's work and multiply the result by twenty-six;

(F) If the employee is paid by his output, find his hourly pay at the time of the injury by dividing the total amount earned by him in the employment in which and at the rate of pay at which he was employed at the time of the injury, during so much of the thirty days next preceding the injury, including the day of the injury, as he was so employed, by the number of hours so employed during such thirty days then proceed as in (E); but if it is impossible to find such hourly pay by this method, the monthly pay of the employee shall be considered to be the average amount earned per month by employees at the same rate of pay in the same or most similar grade, employment, or locality;

(G) In making the computation provided in clauses (E) and (F) of this section, overtime shall not be taken into account;

(H) Subsistence and the value of quarters shall be included as part of the pay;

(I) If the disability or suspension from work is due to an occupational disease the term "injury," as used in this section, shall mean:

(a) The time of the beginning of any disability or suspension from work due to such disease, or

(b) If at such time the employee is not in the service of the United States, the time of leaving such service.

Sec. 15. That in the determination of the employee's monthly wage-earning capacity after the beginning of partial disability, the value of housing, board, lodging, and other advantages which are received from his employer as a part of his remuneration and which can be estimated in money shall be taken into account.

Sec. 16. That in cases of death or of permanent total or permanent partial disability, if the monthly payment to the beneficiary is less than $5 a month, or if the beneficiary is or is about to become a non-resident of the United States, or if the commission determines that it is for the best interests of the beneficiary, the liability of the United States for compensation to such beneficiary may be discharged by the payment of a lump sum equal to two-thirds of all future payments of compensation. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the National Fraternal Congress table; but in case of compensation to the

widow or widower of the deceased employee, such lump sum shall not exceed sixty months' compensation. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

Sec. 17. That every employee injured in the course of his employment, or some one on his behalf, shall, within forty-eight hours after the injury, give written notice thereof to the immediate superior of the employee. Such notice shall be given by delivering it personally or by depositing it, properly stamped and addressed, in the mail.

Sec. 18. That the notice shall state the name and address of the employee, the year, month, day, and hour when and the particular locality where the injury occurred, and the cause and nature of the injury, and shall be signed by and contain the address of the person giving the notice.

Sec. 19. That unless notice is given within the time specified or unless the immediate superior has actual knowledge of the injury, no compensation shall be allowed, but for any reasonable cause shown the commission may allow compensation if the notice is filed within one year after the injury.

Sec. 20. That no compensation under this Act shall be allowed to any person unless he or some one on his behalf shall, within the time specified in section twenty-two, make a written claim therefor. Such claim shall be made by delivering it at the office of the commission or to any commissioner or to any person whom the commission may by regulation designate, or by depositing it in the mail properly stamped and addressed to the commission or to any person whom the commission may by regulation designate.

Sec. 21. That every claim shall be made on forms to be furnished by the commission and shall contain all the information required by the commission. Each claim shall be sworn to by the person entitled to compensation or by the person acting on his behalf, and, except in case of death, shall be accompanied by a certificate of the employee's physician stating the nature of the injury or disease and the nature and probable extent of the disability.

Sec. 22. That all claims for compensation for disability resulting from injury shall be made within sixty days after the injury. All claims for compensation for disability or suspension from work resulting from occupational disease shall be made within sixty days after the beginning of the disability or suspension. All claims for compensation for death shall be made within one year after the death. For any reasonable cause shown the commission may allow claims for compensation for disability resulting from injury or occupational disease to be made at any time within one year.

Sec. 23. That the immediate superior of the employee or the commission, as the case may be, may, within ten days after receipt of a notice or claim, demand a further notice or claim, specifying in the demand in what particular the notice or claim is defective. Failure to make such demand shall constitute a waiver by the United States of all defects which the notice or claim may contain. After receipt of such demand, the person giving the notice or making the claim may, at any time within ten days, give an amended notice or make an amended claim, which shall supersede the first notice or claim and have the same effect as an original notice or claim.

Sec. 24. That any person seeking to enter the service of the United States in or about any work or process in which he would be subject to the risk of contracting an occupational disease shall, if so requested by the commission, submit himself, at a reasonable time and place, to examination, by a medical officer of the United States, or by a duly qualified physician designated or approved by the commission. If, in the opinion of the examining physician, such person exhibits symptoms of an occupational disease, or by reason of his physical condition is peculiarly likely to contract an occupational disease, the physician shall so certify to the appointing officer, who shall refuse to appoint such person to any position in or about such work or process.

Sec. 25. That any employee employed in or about any work or process in which he is subject to the risk of contracting an occupational disease shall, from time to time, if so ordered by the commission, submit himself to examination by a medical officer of the United States or by a duly qualified physician designated or approved by the commission, for the purpose of determining whether or not he has contracted such disease.

Sec. 26. That after the injury or after disability or suspension from work on

account of an occupational disease the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by a medical officer of the United States or by a duly qualified physician designated or approved by the commission. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. For all examinations after the first the employee shall, in the discretion of the commission, be paid his reasonable traveling and other expenses and loss of wages incurred in order to submit to such examination. If the employee refuses to submit himself for or in any way obstructs any examination, his right to claim compensation under this Act shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues, and the period of such refusal or obstruction shall be deducted from the period for which compensation is payable to him.

Sec. 27. That in case of any disagreement between the physician making an examination on the part of the United States and the employee's physician the commission shall appoint a third physician, duly qualified, who shall make an examination. The decision of the majority shall be final.

Sec. 28. That fees for examinations made on the part of the United States under sections twenty-four, twenty-five, twenty-six, and twenty-seven by physicians who are not already in the service of the United States shall be fixed by the commission. Such fees, and any sum payable to the employee under section twenty-six, shall be paid out of the appropriation for the work of the commission.

Sec. 29. That immediately after an injury to an employee resulting in his death or in his probable disability, his immediate superior shall at once make a report to the commission containing such information as the commission may require, and shall thereafter make such supplementary reports as the commission may require.

Sec. 30. That no claims for compensation under this Act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

Sec. 31. That no claim for legal services in connection with any claim arising under this Act shall be enforceable unless approved by the commission.

Sec. 32. That if an injury or death for which compensation is payable under this Act is caused under circumstances creating a legal liability in some person other than the United States to pay damages therefor, and a beneficiary entitled to compensation from the United States for such injury or death receives, as a result of a suit brought by him or on his behalf, or as a result of a settlement made by him or on his behalf, any money or other property in satisfaction of the liability of such other person, such beneficiary shall, after deducting the costs of suit and a reasonable attorney's fee, apply the money or other property so received in the following manner:

(A) If his compensation has been paid in whole or in part, he shall refund to the United States the amount of compensation which has been paid by the United States and credit any surplus upon future payments of compensation payable to him.

(B) But if no compensation has been paid to him by the United States, he shall credit the money or other property so received upon any compensation payable to him by the United States.

Sec. 33. That a commission is hereby created, to be known as the United States Employee's Compensation Commission, and to be composed of three commissioners appointed by the President, with the advice and consent of the Senate, one of whom shall be designated by the President as chairman. No commissioner shall hold any other office or position under the United States. Each commissioner shall hold office until his successor is appointed and has qualified. Any vacancy occurring shall be filled in the same manner as an original appointment. Each commissioner shall receive a salary of $5,000 a year. A majority of the commission shall constitute a quorum for the exercise of any of its powers and duties, and an award by a majority shall be valid.

Sec. 34. That the commission, or any commissioner by authority of the commission, shall have power to issue subpoenas for and compel the attendance of witnesses, to require the production of books, papers, documents, and other evidence, to administer oaths, and to examine witnesses.

Sec. 35. That the commission shall have such assistants as may be from time

to time provided by Congress. They shall be appointed by the commission without regard to party affiliation and solely with regard to their fitness to perform their duties. The commission shall designate one assistant, who, if any commissioner is absent or unable to perform his duties, shall act for him during such absence or inability, and who, if there is a vacancy in the office of any commissioner, shall act as commissioner until the vacancy is filled.

Sec. 36. That the commission shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary for the work of the commission.

Sec. 37. That the commission is authorized to make necessary rules and regulations for the enforcement of this Act, and shall decide all questions arising under this Act.

Sec. 38. That the commission shall study the causes of accidents and occupational diseases among the employees covered by this Act, and shall from time to time make such recommendations as it may deem proper to the various departments as to the best means of preventing such accidents and occupational diseases.

Sec. 39. That the commission shall make to Congress at the beginning of each regular session a report of its work for the preceding fiscal year, including a detailed statement of appropriations and expenditures, a detailed statement showing expenditures from the employees' compensation fund, and its recommendations for legislation.

Sec. 40. That for the remainder of the fiscal year ended June thirtieth, nineteen hundred and thirteen, and for the fiscal year ending June thirtieth, nineteen hundred and fourteen, there is hereby appropriated, from any money in the Treasury not otherwise appropriated, the sum of $50,000 for the work of the commission, including salaries and traveling expenses, rent and equipment of offices, purchase of books, stationery, and other supplies, printing and binding, to be done at the Government Printing Office, and other necessary expenses.

Sec. 41. That there is hereby appropriated, from any money in the Treasury not otherwise appropriated, the sum of $800,000, to be set aside as a separate fund in the Treasury, to be known as the employees' compensation fund. To this fund there shall be added such sums as Congress may from time to time appropriate for the purpose. The commission shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary for the maintenance of the fund.

Sec. 42. That compensation provided by this Act may be awarded by the commission upon the claim presented by the beneficiary and the report furnished by the immediate superior of the employee and upon such investigation as it may deem necessary to discover the facts. Compensation when awarded shall be paid from the employees' compensation fund on the order of the commission or a majority thereof.

Sec. 43. That the commission may at any time review, and, in accordance with the facts found in such review, end, diminish, or increase any award of compensation previously made.

Sec. 44. That if any compensation is paid under a mistake of law or of fact, the commission shall immediately cancel any award under which such compensation has been paid, and shall recover, as far as practicable, any amount which has been so paid.

Sec. 45. That whoever makes, in any affidavit required under section four or in any claim for compensation, any statement, knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than $2,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 46. That wherever used in this Act—

The singular includes the plural and the masculine includes the feminine and neuter.

The term "employee" includes all civilian officers and employees of the United States, except officers and employees of, first, the Isthmian Canal Commission; second, the Panama Canal; third, the Panama Railroad Company; but includes no others.

The term "commission" shall be taken to refer to the United States Employees' Compensation Commission provided for in section thirty-three.

The term "department" includes the executive departments whose heads are members of the President's Cabinet, and all independent offices, bureaus, boards, or commissions.

The term "physician" includes surgeons.

Sec. 47. That all Acts or parts of Acts inconsistent with this Act are hereby repealed: *Provided, however,* That for injuries occurring prior to July first, nineteen hundred and thirteen, compensation shall be paid under the law in force at the time of the passage of this Act.

Sec. 48. That sections twenty-four, twenty-eight, thirty-three to forty, both inclusive, forty-six, and forty-eight of this Act shall take effect immediately upon its passage. The remainder of the Act shall take effect on July first, nineteen hundred and thirteen, but shall not apply to disability or death resulting from an injury sustained prior to July first, nineteen hundred and thirteen, or to disability, suspension from work, or death resulting prior to July first, nineteen hundred and thirteen, from an occupational disease.

Eight Hour Day for Women in the District of Columbia

THE PLEDGE.

"The supreme duty of the nation is the conservation of human resources through an enlightened measure of social and industrial justice. We pledge ourselves to work unceasingly in state and nation for:—

* * * * *

the establishment of an eight-hour day for women and young persons."

—Progressive National Platform.

THE FULFILMENT.

H. R. 6210. Introduced by Representative John I. Nolan of California, June 20, 1913. Referred to the Committee on the District of Columbia.

NOTE:—Several months after the introduction of the Progressive Bill a similar measure was passed by Congress and approved by the President. This Progressive proposal is therefore omitted from this pamphlet.

Commission on Social Insurance

THE PLEDGE.

"The supreme duty of the nation is the conservation of human resources through an enlightened measure of social and industrial justice. We pledge ourselves to work unceasingly in state and nation for:—

* * * * *

"The protection of home life against the hazards of sickness, irregular employment and old age through the adoption of a system of social insurance adapted to American use."

—Progressive National Platform.

THE FULFILMENT.

H. R. 5696. Introduced by Representative M. Clyde Kelly of Pennsylvania, May 29, 1913. Referred to the Committee on Appropriations.

Commission on Social Insurance

Commission on Social Insurance

THE NEED.

Following his introduction of this Bill, Congressman Kelly delivered in the House on August 1st, an illuminating speech on the need of Government investigation. He said:

"The business and industrial interests of this country have realized the importance of the problem of waste of material, and in recent years the desire to prevent this waste has been the greatest aim of these interests. Establishments and corporations have experimented long and at great expense, with the result that they are today making millions of dollars from the vast stores of materials which formerly went to waste and were counted of no value.

"But American business and industry, while solving the problem of waste in materials, have forgotten the far greater problem of the waste of life. I do not mean to say that all business men and all leaders of industry have overlooked this vital question; but taken in the whole, the dollar-and-cent issue back of the conservation of materials has blinded business and industry to everything save the fact that human life is cheap and that the place left vacant by accident or death or disease is quickly filled from the ranks of those who clamor for it.

"Now, I want to lay down the proposition that viewed from a purely financial standpoint alone, the economic loss caused by sickness, invalidity, industrial accidents, and unemployment form the greatest drain today on the Nation's resources, and that it is a matter of dollars and cents for every American citizen that this waste be prevented."

Taking up the various forms of industrial waste, Mr. Kelly laid the basis for the following estimates which probably are well below the true figures. Determining human values in terms of money, while producing startling figures, is at least an attempt to reduce emotional factors in the problem.

Annual Losses in Human Resources.

Accidents	$350,000,000
Sickness and Invalidity.....	1,000,000,000
Unemployment	847,600,000
	$2,197,600,000

These figures are of course highly speculative. There are no reliable statistics upon which such estimates could be made. Considering, however, that available reports on accidents, disease and similar common hazards are necessarily incomplete and that Mr. Kelly utilized a fairly

conservative method of making his estimate on the modest basis of $10,000 for the value of a life and $435 as the average annual income of the wage earner—his figures are not without value in helping to visualize the problem. The demand that a billion dollar congress should adequately investigate a possible annual waste of over two billion dollars of human resources should not be regarded as unreasonable. The very uncertainty in present statistics indicates the great need for a sweeping national investigation.

The objection may be raised that this loss cannot be prevented and that if it can be, schemes of social insurance are not preventives. There are two obvious answers to such objections.

First. The establishment of various forms of Social Insurance whereby either the industry or society as a whole bears the burden of extravagance in the use of human resources, inevitably acts as a powerful preventive of such waste. If any industry is required to pay for its wastage, the directors of that industry will reduce the amount of wastage to the lowest possible figure.

Second. Regardless of whether systems of Social Insurance will act as preventives, they are methods of equitably distributing the losses of society. At the present time these losses fall most heavily upon those who are least fitted to bear them. There is a joint responsibility upon consumer, producer and laborer, or let us say, upon the State, the employer and the employe, upon which an intelligent distribution of loss can be based. At the present time these losses fall in hap-hazard fashion. The injured or weak worker is the only one of the three interested parties who is absolutely certain to carry this burden and he is obviously the one least able to do so.

Under the auspices of the American Association for Labor Legislation the first national conference on Social Insurance was held in Chicago in June, 1913. The main result of the conference was to point out most clearly that according to most authoritative opinion the great present need is for the investigation of the entire subject by the Government in order that the vastly scattered material and important statistics may be gathered and digested as a preparation for either the nation or the State adequately dealing with this nation-wide problem. An international congress on Social Insurance will be held in Washington in 1915, and a Federal Commission, appointed in the near future and entering energetically on its work, should be able to have prepared by that date material of incalculable value to aid in the deliberations of that body. The United States has lagged far behind the great nations of Europe in its attention to matters of social legislation. Our rapidly increasing problems, owing to the steady concentration of population in our great cities and industrial centers, require that we should move forward speedily in our preparations to deal adequately with these questions.

The purposes of the new Committee on Social Insurance appointed by the American Association for Labor Legislation as expressed in the Survey of March 15th, 1913, indicate the value of the proposed Commission in the following language:

> "Besides accident compensation, sickness insurance will receive much attention and the Committee will emphasize the fact that social

insurance is insurance for the masses, for those who would not otherwise be insured. In the words of a member of the Committee, 'we should inquire into the desirability of insurance against all emergencies of life of the working classes. *When we classify the causes of poverty, we enumerate the various kinds of insurance.'*"

Mr. I. M. Rubinow, in his recent book, "Social Insurance,"* summarizes the need in the following language:

"Here are some facts demanding sober consideration:

"(1) From two-thirds to three-fourths of all productive workers in the United States depend upon wages or small salaries for their existence.

"(2) From four-fifths to nine-tenths of the wage-workers receive wages which are insufficient to meet the cost of a normal standard of health and efficiency for a family, and about one-half receive much less than that.

"(3) If a certain proportion of wage-workers' families succeed in attaining such a standard, it is made possible only by the presence of more than one worker in the family.

"(4) This condition, however, can only be temporary in the history of any workingman's family.

"(5) The increase in the standard of wages is barely sufficient to meet the increased cost of living.

"(6) An annual surplus in the workingman's budget is a very rare thing, and is very small.

"(7) The growth of savings bank deposits in the United States is not sufficient evidence of the ability of the American workingman to make substantial savings. A large proportion of these savings belong to other classes of population, and in so far as information is available, the average workingman's deposit is very small.

"(8) The analysis of the economic status of the American wage-worker does not disclose his ability to cope with the various economic emergencies without outside assistance.

"It may be argued that all this evidence of the unsatisfactory economic condition of the working class, if correct, proves rather the necessity of a higher wage level than of a policy of social insurance. And it is surely not the intention of the writer to deny the necessity for higher wages. But this objection, often made, is based upon a misconception of the direct aims of social insurance. It does not deal with the normal standard of workingmen's life, except indirectly, and in so far as the normal standard of wages and the standard of living depending upon wages are unsatisfactory, the corrective measures are much broader than anything social insurance can offer.

"The direct object of social insurance is to protect this standard from the onslaught upon it by various physical and economic dangers, though it goes without saying that by this amount of protection the general standard is upheld and its improvement facilitated. But the economic and statistical evidence produced seems to force the conclusion, that if the general status of the wage-worker's life is much below the standard

*"Social Insurance," by I. M. Rubinow. N. Y., Henry Holt & Co., 1913.

of physiological necessity and economic efficiency, surely the wage-worker is seldom in condition to withstand the attack of any cause which produces an interruption of income. In other words, the condition exists which has been responsible for the growth of the social insurance movement in all industrial countries."

THE REMEDY.

The proposed Commission on Social Insurance is to be composed of five members appointed by the President, serving for the modest compensation of $10 per day, and granted plenary powers of investigation into "the cost, operation and social value of voluntary, mutual and other forms of public and private insurance against accident, sickness, invalidity, old age, debt, unemployment and other disabilities and hazards in the common life of the people, and the cost, operation and social value of related forms of public and private pensions."

The Commission is also to inquire into the nature and operation of foreign systems of insurance and pensions and into the extent of the need for such insurance in the United States. In the event of the recommendation of governmental action it is made the duty of the Commission to draft and submit with its final report tentative drafts of such a Bill or Bills as are deemed by the Commission necessary, suitable and sufficient to carry out its recommendations.

The purpose of this provision it not to usurp in any way Legislative functions, but in order that the Commission may make clear just what type of legislation even as to minor details would in its judgment support its recommendations.

A BILL.

To Create a Commission on Social Insurance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created to be called the Commission on Social Insurance. Said commission shall be composed of five persons, to be appointed by the President of the United States, by and with the advice and consent of the Senate. The Departments of Commerce and Labor are authorized to cooperate with said commission in any manner and to whatever extent the Secretaries of Commerce and Labor may approve.

Sec. 2. That the members of this commission shall be paid actual traveling and other necessary expenses and in addition a compensation of $10 per diem while actually engaged on the work of the commission and while going to or returning from such work. The commission is authorized as a whole, or by subcommittees of the commission, duly appointed, to hold sittings and public hearings anywhere in the United States, to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses and to compel testimony, and to employ such secretaries, experts, stenographers, and other assistants as shall be necessary to carry out the purposes for which such commission is created, and to rent such offices, to purchase such books, stationery, and other supplies, and to have such printing and binding done as may be necessary to carry out the purposes for which such commission is created, and to authorize its members or its employees to travel in or outside the United States on the business of the commission. In aid of its powers herein granted the commission shall be empowered to invoke the aid of any district court of the United States having jurisdiction in the district wherein said aid is required to enforce its orders, and jurisdiction is hereby granted to such district courts of the United States to issue, upon petition of the commission, the

necessary process and writs to carry out the orders of said commission and to compel obedience to the subpoenas of said commission or to compel testimony and production of documentary evidence in response to such subpoenas.

Sec. 3. That said commission may report to the Congress its findings and recommendations and submit the testimony taken from time to time, and shall make a final report accompanied by the testimony not previously submitted not later than two years after the date of the approval of this Act, at which time the term of this commission shall expire, unless it shall previously have made final report, and in the latter case the term of the commission shall expire with the making of its final report; and the commission shall make at least one report to the Congress within the first year of its appointment, and a second report within the second year of its appointment.

Sec. 4. That the commission shall inquire into—

The cost, operation, and social value of voluntary, mutual, and other forms of public and private insurance against accident, sickness, invalidity, old age, death, unemployment, and other disabilities and hazards in the common life of the people, and the cost, operation, and social value of related forms of public and private pensions.

The extent of the need for such insurance in the United States and the possibilities in constructive development of the same.

The nature and operation of such systems of insurance or pensions as have been and are established in foreign countries and their adaptability to conditions and to use in the United States.

Sec. 5. That the commission shall make recommendations in its final report concerning the desirability of establishing, either in the United States or in the several States or in both, a system or systems of social insurance as outlined above; and in the event that governmental action is recommended it shall be the duty of the commission to draft and submit with its final reports, tentative drafts of such a bill or bills as are deemed by the commission necessary, suitable, and sufficient to carry out its recommendations.

Sec. 6. That the sum of $50,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the use of the commission for the fiscal year ending June thirtieth, nineteen hundred and thirteen: *Provided,* That no portion of this money shall be paid except upon the order of said commission, signed by the chairman thereof.

Naturalization Commission

THE PLEDGE.

"We denounce the fatal policy of indifference and neglect which has left our enormous immigrant population to become the prey of chance and cupidity.

"We favor governmental action to encourage the distribution of immigrants away from the congested cities, to rigidly supervise all private agencies dealing with them and to promote their assimilation, education and advancement."

—Progressive National Platform.

THE FULFILMENT.

H. R. 5819. Introduced by Representative Victor Murdock of Kansas, June 2, 1913. Referred to the Committee on Immigration and Naturalization.

Naturalization Commission

THE NEED.

The conflicting results of state legislation with reference to aliens and the inconsistent administration of the Federal naturalization laws by State courts, have created the need for a Federal Commission on naturalization, as proposed in the bill introduced in the House by Congressman Victor Murdock. The presence in the United States of four million non-citizen males and over five million foreign born females, shows the extent and importance of the problem.

Although, by the constitution, the power was conferred upon Congress "to establish a uniform rule of naturalization throughout the United States", Congress has as yet failed to fulfill all the obligations accompanying this grant of power.

Defects in Administration Facilities.

In the administration of the naturalization laws, Congress has invoked the aid of State courts in such a manner as to make them, in a way, voluntary agents not definitely responsible nor committed by law to a uniform policy of administration. 2,277 State courts and 250 Federal courts are exercising naturalization jurisdiction. The jurisdiction of the Federal courts necessarily covers large areas whereby attendance upon the court is exceedingly difficult and expensive for those living in distant parts of the district. Many of the State and Federal courts have little naturalization work to do, while others are over-crowded with this business. In the fiscal year ending June 30th, 1912, 65% of all the naturalization business of the country was transacted by 18% of the courts having facilities therefor.

The important effect of the location of naturalization courts and their methods of administration upon the making of citizens is readily seen when one considers the requirements of the naturalization laws. An applicant must appear in court from four to eight times: 1. To file his declaration. 2. To file his petition. 3. For examination by the Bureau of Naturalization Examiner. 4. For hearing in open court. 5. To obtain a certificate, and often other times if his case is not reached upon the court call. At the time of filing his petition and upon final examination, the petitioner must be accompanied by two citizen witnesses who have known him for five years. Therefore, if the court is at a distance from the petitioner's residence, he must pay a round trip railroad fare for himself and two witnesses, at least two and possibly three or four times. In addition to this expense, the applicant also pays a fee of $1.00 upon the declaration of intention and $4.00 upon filing of the petition. Also he must sacrifice his time for which the average wage earner is

simply docked so many dollars and must persuade his witnesses to make a like sacrifice. As one earnest would-be citizen writes:

> "As far as I know, the papers cost only $5.00, which I would willingly pay, but adding $3.00 for every day I lose and say $3.00 for each voucher (witness) per day, car fare, etc., would amount according to my figuring, to about $30.00 to $35.00, which is too much for the average working man to pay at this time of high cost of living."

All State courts having certain jurisdiction in matters of law and equity and the Federal courts, are granted jurisdiction in naturalization matters but this establishes courts without any regard for the needs of the alien population. These courts also naturally do not hold night sessions, whereby it is necessary for even the alien within easy distance to devote a large portion of several working days to obtaining citizenship. Again, although naturalization is a national matter, an applicant must reside at least one year within the State where petition is filed, which works a great hardship upon a large number of aliens who, on account of seasonal employment, make frequent changes of residence and who incidentally find it most difficult to find witnesses who have known them for five years.

The fifty-five examiners of the Bureau of Naturalization are required to examine every petition filed in any part of the United States and report their findings to the court. More speed can be obtained where the examiners attend court sessions, but it is obviously impossible for fifty-five examiners to attend upon the sessions of even the more important of 2,527 courts exercising naturalization jurisdiction.

The administrative difficulties inherent in such a system as now prevails, provide one reason why, out of 169,142 declarations filed for the fiscal year ending June 30th, 1912, only 95,627 petitions were filed and only 69,965 certificates issued.

Lack of Educational Facilities.

There is, however, a more deep seated weakness than administration in the naturalization methods, and that lies in the lack of definite and official provision for the preliminary education of aliens which must precede naturalization. A would-be citizen must be able to speak the English language and must be familiar with the constitution of the United States and have some general knowledge of civics. Yet, although the doors of the United States are wide open to immigrants and it is admittedly only desirable to encourage the entry of aliens in the expectation that they will become citizens, nevertheless, that same Government which welcomes the foreign born, which looks upon him as a future citizen, makes no provision for his education in the language of the country or his understanding of its principles of government.

In a few of the States, some of the larger cities have made provision for night schools designed for the instruction of aliens in English, and in a few instances, in civics. For example, in thirty-one municipalities in New York State having such night schools, only two provide instruction in civics, and out of twenty-eight municipalities in New Jersey, only two provide instruction in civics, and in both of these States there

is no co-ordination between this schooling and the work of naturalization. The State of California gives a unique example of co-ordination of schooling and naturalization. When an applicant files his petition, he is advised, in the city of Los Angeles, to attend the school provided, for a period of three months. In the greater part of the United States, however, there is little provision for the would-be citizen to obtain instruction in language or in principles of government.

That some such provision is earnestly desired by aliens, is shown from the unfortunate success of various clubs organized for the private profit of unscrupulous persons pretending to give instruction and to insure naturalization to members. Of course, there are many private agencies of higher repute working upon this problem, but any adequate solution can only come from the National Government. The educational facilities at the disposal of the alien and their effectiveness, vary in importance to the alien, according to the particular court to which he must report to obtain his papers—a most unfortunate situation. Certain judges administer the law with great strictness requiring a high standard of ability to speak the language and a real understanding of governmental principles. In other courts the administration is distinctly lax and this inequality is a natural result of the lack of definite standards whereby an alien is entitled to citizenship and the lack of any definite governmental schooling to indicate what a court should regard as the essentials of knowledge to be possessed by the petitioner.

Differing Rights of Aliens in Different States.

When the legal status of aliens, their rights and disabilities under State laws and Municipal ordinances, are considered, the importance of uniform and efficient naturalization regulations becomes painfully evident. Aliens are discriminated against in employment on public works in nine states and one territory, including Arizona, Massachusetts, New York, New Jersey, Louisiana, Pennsylvania, Wyoming, Idaho and Alabama (and also Hawaii). In many other States there are specific provisions limiting certain occupations to citizens. Discriminatory provisions are very frequent in muncipal regulations and ordinances. Licenses for certain occupations are denied to aliens in various cities. Laws affecting the alien's right to work in certain States have been of such drastic character as to be held unconstitutional, as for example, in Idaho and Pennsylvania, In two States at least, of those having workmen's compensation laws (New Hampshire and New Jersey), aliens are specifically excluded as beneficiaries.

The alien's right to own or lease real estate has been the subject of legislation in numerous States, and as in the recent Japanese imbroglio such laws constantly make imminent international controversy.

Voting Rights of Aliens.

By far the most important question concerning the legal status of the four million resident alien males and five million foregn born resident females, is involved in the laws governing the right to vote. In a majority of the States, the right to vote is a constitutional one, limited to citizens, but in eight States, Arkansas, Indiana, Michigan, Kansas,

Missouri, Nebraska, Texas and Oregon, an alien, upon filing his declaration of intention, is entitled to vote at all elections. The naturalization laws do not give the alien any political rights until actually admitted to citizenship, yet, the right to vote by these state laws is bestowed as a consequence of mere declaration of intention, although as previously pointed out, out of 169,141 declarations of the last fiscal year, only 69,965 certificates resulted.

As was well pointed out by the Commission on Naturalization in its report of November 8th, 1905, "The case may readily arise of the balance of political power in the United States being lodged in foreigners owing no allegiance to the United States." A very pertinent example comes from the national election of 1908 in Indiana which has usually been regarded in recent presidential elections, as a doubtful State. An increasingly large number of foreigners are employed there in the steel industry. It is significant that from July to October, 1908, 660 declarations were filed; from October to December (the period of presidential election), 6,697 declarations were filed, and from January to April of 1909, only 71 declarations were filed. It is reasonable to assume that over 6,000 aliens declared intention for the principal purpose of voting at this presidential election. Those 6,000, who might never become citizens, might well determine the electoral vote of the State of Indiana, which in its turn might well determine the electoral vote of the nation. A similar result might take place in at least six of the eight states which permit a vote to follow a mere declaration of intention.

In this connection, attention should be called to the fact that both the Commission of Naturalization of 1905 and the division of naturalization of the Department of Labor, have recommended the abolition of the declaration of intention, as it entails considerable unnecessary work, it may result in an abuse of political power and finally, since every petitioner must now file a certificate of arrival if he has arrived in the United States subsequent to June, 1906, his five years' residence in this country is easily established.

Women's Citizenship and Suffrage.

If the right of the male to vote is at present determined by standards quite insistent with our naturalization laws, the right of the female to vote may be said to be determined by practically no standards at all. Under the present laws, the naturalization of women follows that of husband and father. Resident American women may therefore be deprived of their vote upon marriage to an alien. Foreign born women, and even most recently arrived immigrant women, may be immediately enfranchised by marriage to a citizen. Following this enfranchisement, her citizenship is retained even though she is divorced, if she continues to reside in the United States.

Considering again the presence of five million foreign born adult females in the United States and the rapidly increasing number of woman suffrage states, of which three are leading immigrant states, it is plain that some uniform and consistent standard for the naturalization of women must be adopted. It is also plain that the theory of a woman's citizenship following that of husband and father is quite inconsistent

with the political and legal status of women in other matters, in the United States.

In this brief survey of the inconsistent and inharmonious state and national regulations of the right to citizenship and the rights of non-citizen residents, the most important fact must not be overlooked that this discord is not a necessary evil to be born for the protection of state rights of sovereignty.

The power conferred upon Congress to establish a uniform rule of naturalization throughout the United States should be exercised for the benefit of all the people, in the same manner as the power of Congress to deal with the question of bankruptcy has been exercised in the aid of commercial harmony. Furthermore, the responsibility for the assimilation of the alien is definitely upon the Federal Government which controls immigration. That national power which admits the alien should guarantee to the states in which he must reside, that it will take all reasonable measures to insure his instruction in the essentials of citizenship. For the protection of the national government itself, provision should also be made that the political control of the nation may not be lodged in alien hands.

How far in actual legislation, the Federal Government should extend its jurisdiction, how far provision for the instruction of aliens and provision for ready naturalization of desirable would-be citizens should be under exclusive Federal control, or in what manner the states may uniformly work toward a common end, co-ordinating their work with the Federal administration of naturalization laws—are all questions for which authoritive solution can only be expected from a Commisison of experts designated for the purpose of considering and working out a comprehensive program of legislative action for the benefit of both the native and foreign born citizen.

THE REMEDY.

The bill proposes to create a temporary commission of five members appointed by the President. These commissioners are to serve without pay as it is the theory of the proponents of the measure that men and women of unusual ability can be drafted into this particular work as an opportunity for genuine public service.

The commission is given plenary powers of investigation and required to make a report and to submit testimony taken within the year and a final report one year later at which time the commission will expire. The duties of the commission are set forth in Section 4 as

"That said commission shall inquire into the conditions of admitted aliens within the several states with respect to facilities, methods, and opportunities for naturalization in the various State and Federal Courts, and the relation of such court procedure to the Federal bureaus of naturalization; shall inquire into the educational preparation and opportunities afforded in each state for such admitted aliens to comply with the provisions of the naturalization law; and shall inquire into the status of aliens in the various states with respect to equality before the law, pursuance of occupations for a livlihood, acquirement and disposition of property, holding of public office, and voting; and such other condi-

tions concerning the naturalization of admitted aliens as affect the welfare and progress of this country."

The commission is directed to prepare tentative drafts of bills which it deems suitable to carry out its recommendations—not as in any way usurping legislative functions but in order to clarify recommendations made.

A BILL.

To Create a Commission on Naturalization

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created to be called the Commission on Naturalization. Said commission shall be composed of five persons, to be appointed by the President of the United States, by and with the advice and consent of the Senate. The Department of Commerce and other departments concerned are authorized to cooperate with said commission in any manner and to whatever extent the Secretaries of said departments may approve.

Sec. 2. That the members of this commission shall receive no compensation, but shall be paid actual traveling and other necessary expenses while actually engaged on the work of the commission and while going to or returning from such work. The commission is authorized as a whole, or by subcommittees of the commission, duly appointed, to hold sittings and public hearings anywhere in the United States, to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses and to compel testimony, and to employ such secretaries, experts, stenographers, and other assistants as shall be necessary to carry out the purposes for which such commission is created, and to rent such offices, to purchase such books, stationery, and other supplies, and to have such printing and binding done as may be necessary to carry out the purposes for which such commission is created, and to authorize its members or its employees to travel in the United States on the business of the commission. In aid of its powers herein granted, the commission shall be and is hereby empowered to invoke the aid of any district court of the United States having jurisdiction in the district wherein said aid is required to enforce its orders, and jurisdiction is hereby granted to such district courts of the United States to issue upon petition of the commission the necessary process and writs to carry out the orders of said commission and to compel obedience to the subpoenas of said commission or to compel testimony and production of documentary evidence in response to such subpoenas.

Sec. 3. That said commission shall report to the Congress its findings and recommendations and submit testimony taken not later than January first, anno Domini nineteen hundred and fourteen, and make a final report not later than January first, anno Domini nineteen hundred and fifteen, at which time said commission shall expire.

Sec. 4. That said commission shall inquire into the conditions of admitted aliens within the several States with respect to facilities, methods, and opportunities for naturalization in the various State and Federal courts, and the relation of such court procedure to the Federal bureaus of naturalization; shall inquire into the educational preparation and opportunities afforded in each State for such admitted aliens to comply with the provisions of the naturalization law; and shall inquire into the status of aliens in the various States with respect to equality before the law, pursuance of occupations for a livelihood, acquirement and disposition of property, holding of public office, and voting; and such other conditions concerning the naturalization of admitted aliens as affect the welfare and progress of this country.

Sec. 5. That said commission shall make recommendations in its report concerning the matters herein referred to it, and in the event that governmental action is recommended it shall be the duty of the commission to draft and submit with its final reports tentative drafts of such a bill or bills as are deemed by the commission necessary, suitable, and sufficient to carry out its recommendations.

Sec. 6. That the sum of $50,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the use of the commission for the fiscal year ending June thirtieth, nineteen hundred and fourteen: *Provided,* That no portion of this money shall be paid except upon the order of said commission, signed by the chairman thereof.

National Rivers Commission

THE PLEDGE.

"The rivers of the United States are the natural arteries of this continent. We demand that they shall be opened to traffic as indispensable parts of a great nation-wide system of transportation in which the Panama Canal will be the central link, thus enabling the whole interior of the United States to share with the Atlantic and Pacific seaboards in the benefit derived from the canal.

"It is a national obligation to develop our rivers, and especially the Mississippi and its tributaries, without delay, under a comprehensive general plan covering each river system from its source to its mouth, designed to secure its highest usefulness for navigation, irrigation, domestic supply, water power and the prevention of floods.

"We pledge our party to the immediate preparation of such a plan, which should be made and carried out in close and friendly co-operation between the nation, the states and the cities affected.

"Under such a plan, the destructive floods of the Mississippi and other streams, which represent vast and needless loss to the nation, would be controlled by forest conservation and water storage at the headwaters, and by levees below; land sufficient to support millions of people would be reclaimed from the deserts and the swamps, water power enough to transform the industrial standing of whole states would be developed, adequate water terminals would be provided, transportation by river would revive, and the railroads would be compelled to co-operate as freely with the boat lines as with each other."

—Progressive National Platform.

THE FULFILMENT.

H. R. 6283. Introduced by Representative Henry W. Temple of Pennsylvania, June 21, 1913. Referred to the Committee on Rivers and Harbors.

National Rivers Commission

THE NEED.

Congressman Temple's bill to create a National Rivers Commission is based on the fundamental conception that every river is a unit from its source to its mouth, and with that fact in mind should be developed so as to secure from it all of the services which it is capable of rendering to the people. In the past the rivers of the United States have usually been considered and treated, in each project for stream improvement, with reference to only one of the four great uses to which a river may be put. These uses are Domestic or Municipal Supply, Water Power, Irrigation, and Navigation. A single stream may, and often does, serve all four of them.

It has, however, been the rule hitherto in the majority of the projects affecting our rivers, to disregard either one, two, or three of the four uses, and to concentrate on a comparatively narrow development instead of attempting to get from the stream the widest possible service to the community. Thus engineering works intended to improve navigation have been planned or located so as unnecessarily to limit or prevent the development of water power which could, without injury to navigation, have been developed at the same time.

In the same way projects for the development of domestic supply and irrigation, as well as navigation and water power, have sacrificed, or have been sacrificed to, the development of the other uses simply for lack of a comprehensive outlook, or a comprehensive plan.

The bill proposes to create a National Rivers Commission with the duty of preparing a plan based upon the harmonious development of all the uses of our streams and all the benefits to be derived from their control.

This is the simple, direct, and business-like way in which to make sure that all the benefits and advantages, which lie latent in the river system of the United States, shall be made fully available for the use of our people. The value of such a plan has long been recognized by students of the subject, and the preparation of it must of necessity precede any general development of the rivers of the United States. This does not mean, however, that projects immediately necessary for protection against floods, or for any other immediate need of the people, shall be delayed pending the completion of such a plan. Indeed the bill specifically provides that they shall not be so delayed. It does require, on the other hand, that the general development of our river system shall proceed by a planned and orderly advance which shall make our streams useful to the people in the highest possible degree.

The waste of effort which has marked our haphazard way of dealing

with our rivers is well illustrated by the fact that the river system of the United States, although unexcelled on any other continent, is less navigated and less navigable now than it was fifty years ago, in spite of the expenditures upon it of about a quarter of a billion dollars. The losses suffered by the people of this country from the failure to develop the water powers of our rivers, or their development and control by monopolists, amount to many millions of dollars every year. It is now proposed to replace the haphazard, unscientific, pork barrel methods of the past by the best plan which the best experts in this country can prepare, always without interference with the immediate execution of those projects which cannot wisely be deferred.

THE REMEDY.

The bill provides for the creation of a National Rivers Commission, so constituted as to include representatives of the many and varied interests involved. The members of the Commission are to serve without pay, but an appropriation is provided for necessary expenses.

It is made the duty of the Commission to proceed forthwith "to gather, classify and analyze such information as it may deem necessary in order to prepare a comprehensive plan for the utilization and control of the rivers of the United States in such a manner as to yield the greatest practical benefit to all the people. Such plan shall be prepared as speedily as practicable and shall take account of all users of said rivers and benefits to be derived from their control, including among other matters navigation, irrigation, water power, domestic and municipal water supply, flood prevention and control, stream pollution, soil erosion, and terminals and co-operation between rail and river transportation."

It is further provided that the work of the Commission shall not interfere with immediate development of streams and that the Commission shall invite the co-operation of all public officials concerned.

The Commission is required to report to Congress at least once a year and at other times as it shall desire or be required to by Congress. The power to administer oaths and to compel the attendance and testimony of witnesses and the production of documentary evidence is given to the Commission, which is empowered to invoke the aid of the federal courts to enforce its orders.

A BILL

To Create a National Rivers Commission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a National Rivers Commission which shall consist of two members of the Senate to be appointed by the President of the Senate, three Members of the House of Representatives to be appointed by the Speaker of the House, a member of the Interstate Commerce Commission to be appointed by the chairman thereof, the Chief of Engineers of the United States Army, the Commissioner of Corporations, the Chief of the United States Forest Service, the Director of the United States Geological Survey, the Director of the United States Reclamation Service, the Chief of the United States Weather Bureau, the president of the Lakes to the Gulf Deep Waterways Association, the president of the National Rivers and Harbors Congress, the president of the National Conservation Association, the president of the Columbia River Improvement Association, the president of the Missouri River Improvement

Association, and the governors of the several States, each of whom shall be ex-officio a member of said commission and entitled to act as in all matters in which his State is concerned. In case of vacancies in the commission caused by death or resignation or change in any office the holder whereof is by virtue of his office made a member of the commission the person herein given the power of appointment shall have the power to fill any such vacancy.

Sec. 2. That the commission shall perfect its organization by the election of a chairman, the election or employment of a secretary, and the election or appointment of such subcommittees and chairmen thereof as from time to time it may deem wise. A majority of the existing members of the commission, exclusive of the governors of the several States, shall constitute a quorum for the transaction of business.

Sec. 3. That the National Rivers Commission shall proceed forthwith to gather, classify, and analyze such information as it may deem necessary in order to prepare a comprehensive plan for the utilization and control of the rivers of the United States in such manner as to yield the greatest practicable benefit to all the people. Such plan shall be prepared as speedily as practicable and shall take account of all users of said rivers and benefits to be derived from their control, including among other matters navigation, irrigation, water power, domestic and municipal water supply, flood prevention and control, stream pollution, soil erosion, and terminals and co-operation between rail and river transportation.

Sec. 4. That nothing in this Act shall operate to prevent such immediate development of streams as the necessities of the people may require.

Sec. 5. That it shall be the duty of the National Rivers Commission to invite the co-operation all State, municipal, and local officials and organizations within the scope of its work and in all practicable ways to co-operate with the same.

Sec. 6. That the commission shall report to Congress upon the first Monday of December and at such other times as it may deem wise or as Congress may require. In any report by the commission recommending legislation by Congress or by one or more of the several States it shall be the duty of the commission to submit with such report tentative drafts of bills necessary to carry out the recommendations of the commission..

Sec. 7. That the commission shall have power to administer oaths and to require by subpœna the attendance of witnesses and the production of books and papers, to make necessary investigations, and to secure from or through the various departments of the Government such information and assistance as may not be incompatible with the duties laid upon such departments by law. In aid of its powers herein granted the National Rivers Commission shall be empowered to invoke the aid of any district court of the United States having jurisdiction in the district wherein said aid is required to enforce its orders; and jurisdiction is hereby granted to such district courts of the United States to issue upon petition of the National Rivers Commission the necessary processes and writs to carry out the orders and to compel obedience to the subpœnas of the said National Rivers Commission and to compel testimony in response to such subpœnas.

Sec. 8. That the members of the National Rivers Commision shall receive no pay by reason of their services on said commission.

Sec. 9. That the sum of $25,000 is hereby appropriated for all necessary expenses of the commission in the execution of this Act and as approved by the chairman thereof for one year from and after the passage of this Act. The expenditures of this and subsequent appropriations shall be accounted for by the chairman of the commission in an account transmitted to Congress the first Monday of December of each year.

Amendment to the Constitution of the United States
(Making Amendment Easier)

THE PLEDGE.

"The Progressive Party, believing that a free people should have the power from time to time to amend their fundamental law so as to adapt it progressively to the changing needs of the people, pledges itself to provide a more easy and expeditious method of amending the federal constitution."

—Progressive National Platform.

THE FULFILMENT.

H. J. Res. 95. Introduced by Representative Walter M. Chandler of New York, June 10, 1913. Referred to the Committee on the Judiciary.

Amendment to the Constitution

THE NEED.

A few quotations from Bryce's "American Commonwealth" will give a most authoritative expression to the need for an amendment to the Federal Constitution making amendment easier.

"It is evident when one questions the nature of a rigid or supreme constitution that some method of altering it so as to make it conform to altered facts and ideas is indispensable. (v. 1, p. 371.)

In this chapter Mr. Bryce explains in great detail why, except under stress of civil war, the Constitution has not been amended in a hundred years. He points out, for example, that a "party amendment can very seldom be carried", and that a non-party amendment is everybody's business, and therefore nobody's business. He also calls attention to the fact (page 369) that

"If, therefore, comparatively little use has been made of the provision for amendment, this has been due not solely to the excellence of the original instrument, but to the difficulties that surround the process of change."

Mr. Bryce considers at some length, the continual amendment of the Constitution which has been going on by indirect methods in the following language (page 373):

"Since modification or developments are often needed and since they can rarely be made by amendment, some other way of making them must be found. The ingenuity of lawyers has discovered one method in interpretation, while the dexterity of politicians has invented a variety of devices whereby legislation may extend or usage may modify the express provisions of the apparently immovable and inflexible instrument."

To all of this conservatives may reply that the two amendments recently passed are a complete answer.

The weakness of this reply is found in the fact that it has taken a very long to pass both of these amendments, although the final steps were taken rapidly. In regard to the direct election of United States Senators not only have there been decades of agitation, but as Mr. Bryce points out (page 370):

"More than half the states have, since 1895, petitioned Congress to summon a convention to consider the propriety of so amending the Constitution as to vest the election (of Senators) in the people instead of the legislatures of the states. Congress has so far (1910) declined to do this, although the House has passed favoring resolutions, the Senate has always refused to concur."

The great reason for the speedy adoption of this amendment was

undoubtedly the Lorimer scandal making the previously well-defined popular opinion quite irresistible.

In regard to the Income Tax Amendment the Congress expressed the demand of the people in the year 1894. The Supreme Court exhibited the need for a constitutional amendment in 1896. Is not seventeen years a somewhat unnecessarily long time in which to make as law the will of an overwhelming majority of the people?

It should not require a civil war or a national scandal, exhibiting to the world the depths of legislative debauchery, to amend the Constitution so that it may represent the established convictions of the people, nor is it in the interests of responsive efficient government for the hands of Congress to be tied for seventeen years in the important matter of justly distributing governmental burdens by the lack of power universally conceded proper for Congress to possess.

In regard to the proposal for a 30-year constitutional convention, the interested student should refer to the note in the "American Commonwealth" on Constitutional conventions. On the whole, constitutional conventions have brought forward much of the ripest wisdom in each generation. They have attracted enormous public attention, hence insuring responsiveness to the public weal not exhibited by the usual Legislature. They have also attracted to their deliberations the ablest and most high-minded students of governmental problems. The recurrence of such a convention every thirty years would insure threshing out, in an assembly of unusually high character, the great political questions of each generation. There would be no incentive to interested beneficiaries of special privilege to fight the calling of such conventions. There would be no need of long periods of struggle with political chicanery to obtain consideration of widespread popular demands. Character and wisdom assured by all precedent in such a convention would make such a body a distinct addition to the regularly constituted deliberative assemblies of our government.

THE REMEDY.

The joint resolution provides for the addition of Article 18, to the Constitution thereby leaving undisturbed the methods of amendment provided in Article 5, and also the important provision that "No State without its consent shall be deprived of its equal suffrage in the Senate."

The proposed Article 18 provides:

Amendments may be proposed in three ways:

By a majority of both Houses of Congress.

By the thirty-year Constitutional convention.

By one-fourth of the States, acting through their Legislatures or by direct popular vote.

Amendments proposed are to be submitted at the next Congressional election—for ratification or rejection.

Amendments proposed are to be ratified by direct vote of a majority of all the electors voting thereon, which must include also a majority of the electors voting thereon in a majority of the States.

The final paragraph is:

"The Congress shall by appropriate legislation provide for the hold-

ing of a convention in the year 1920 and every thirty years thereafter for proposing amendments to this Constitution."

For purposes of convenient comparison the present amending clause of the Constitution is here printed:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the first Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

JOINT RESOLUTION.

Proposing an Amendment to the Constitution of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following be proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

"ARTICLE XVIII.

"Sec. —. Amendments to this Constitution may be proposed by the Congress whenever an absolute majority of both Houses in the same session of Congress shall deem it necessary, or by conventions to be called as hereinafter set forth, or by not less than one-fourth of the States, provided the States proposing such amendments contain not less than one-fourth of the population of all the States as shown by the last preceding decennial enumeration. Such proposal by the States may be made either by the legislatures thereof, or by the vote of a majority of the electors voting thereon in any State making provision for the submission of such a proposal to popular vote. Amendments proposed, as above provided, shall be submitted at the next ensuing election of Representatives in each of the several States, directly to the electors qualified to vote for the election of Representatives in accordance with the regulations of each of the States where provision for such vote is made by the State. In default of State regulation thereof the vote upon proposed constitutional amendments shall be taken in such manner as the Congress shall provide. If in the majority of the States a majority of the electors voting thereon approve the proposed amendments, and if the majority of all the electors voting thereon shall also approve the proposed amendments, they shall be valid to all intents and purposes as part of this Constitution.

"The Congress shall by appropriate legislation provide for the holding of a convention in the year nineteen hundred and twenty, and every thirty years thereafter, for proposing amendments to this Constitution."

Permanent Tariff Commission

THE PLEDGE.

"We believe in a protective tariff which shall equalize conditions of competition between the United States and foreign countries, both for the farmer and the manufacturer and which shall maintain for labor an adequate standard of living.

"Primarily the benefit of any tariff should be disclosed in the pay envelope of the laborer. We declare that no industry deserves protection which is unfair to labor or which is operating in violation of federal law. We believe that the presumption is always in favor of the consuming public.

"We demand tariff revision because the present tariff is unjust to the people of the United States. Fair dealing toward the people requires an immediate downward revision of those schedules wherein duties are shown to be unjust or excessive.

"We pledge ourselves to the establishment of a non-partisan scientific tariff commission, reporting both to the President and to either branch of Congress, which shall report, first, as to the costs of production, efficiency of labor, capitalization, industrial organization and efficiency and the general competitive position in this country and abroad of industries, seeking protection from Congress; second, as to the revenue-producing power of the tariff and its relation to the resources of government; and, third, as to the effect of the tariff on prices, operations or middlemen, and on the purchasing power of the consumer.

"We believe that this commission should have plenary power to elicit information, and for this purpose to prescribe a uniform system of accounting for the great protected industries. The work of the commission should not prevent the immediate adoption of acts reducing those schedules generally recognized as excessive."

—Progressive National Platform.

THE FULFILMENT.

H. R. 4813. Introduced by Representative Victor Murdock of Kansas, May 6, 1913. Referred to the Committee on Ways and Means.

Tariff Commission

THE NEED.

The 531 members of the Sixty-third Congress (Senators and Representatives) may be classified from the Congressional Directory as follows:

343 Lawyers.
7 Physicians.
29 Journalists.
12 Teachers.
30 Unclassified (politicians.)
and only
91 Business men (including bankers), and
19 Farmers.

This is the composition of the body which revises the tariff duties. It may be liberally assumed that possibly 100 out of 531 possess a little first hand knowledge about a few of the schedules.

The Underwood Bill was introduced April 7, 1913—a document of 218 pages, with a total of 5,439 lines. Some of these lines read as follows:

"amidosalicylic acid, binitrochlorbenzol, diamidostilbendisulfo-acid," ..... 10 per centum ad valorem.

"croton, ichthyol, juglandium, palm, palm-kernel, soyabean" (oils) ..... free.

This bill was referred to the Ways and Means Committee, consisting of 15 lawyers, 2 journalists, 3 unclassified (politicians), and 1 business man.

After two weeks' "consideration" the Committee reported the bill back to the House *without amendment* on April 21, 1913, with an explanatory hand book containing 750 pages of fine print. Seventeen days later, May 8, this bill passed the House. The duties on over 3,500 articles had been "considered" by a committee of 21 for two weeks and by a House of 435 for seventeen days. The prosperity of industry after industry had been weighed in the balance, the great policy of an income tax had been debated and the rates fixed, administrative provisions of enormous importance had been determined upon—in a total of 31 days by a body of 435 men largely without training or experience in the problems involved who for the most part had not the slightest exact knowledge concerning what they were doing.

Victor Murdock, Progressive leader in the House, and a member of the Ways and Means Committee, well wrote in his minority report:

"If there had been wanting in the tariff experience of the past proof of the absolute necessity of a tariff commission, as pro-

posed by the Progressive Party, the present measure H. R. 3321 alone could supply it."

On June 16 the Chamber of Commerce of the United States published a report of its referendum on the advisability of a tariff commission—725 votes were cast "Yes"; and 9 votes "No." The total of 834 votes were cast by commercial organizations representing 113,389 firms and individual business men scattered over 36 states.

Necessarily members of Congress in framing tariff bills must rely on expert advice, which under the present system is furnished in a haphazard way partly by Government experts and partly by experts employed by private individuals pecuniarily interested in tariff making. A choice example of the results of this system—or better, the lack of any system—has been given publicity by Senator Poindexter.

Extract from speech of Hon. Miles Poindexter, in the Senate, September 6th, 1913:

"For the purpose of illustrating the manner in which this bill has been considered and the manner in which the existing law was considered, and in which a tariff bill necessarily must be considered so long as the present system continues, I ask leave to print as a part of my remarks a portion of the Congressional Record of July 23, 1913, beginning at page 2970, containing a portion of the debate upon acetic ether. It is quite illuminating as to method and as representing a Senate in the very act of framing a tariff bill,"—

Mr. Smoot: Mr. President, I wish to offer an amendment to that amendment by making it "10 per centum of." I wish to call the attention of the Senate to the reason why I offer the amendment. If it is not 10 per cent, ethyl acetate or acetic ether will fall back into paragraph 17 and take the extreme high rate provided for articles manufactured and containing 20 per cent of alcohol or less. The 5 per cent takes care of sulphuric ether, which is of course, the great anaesthetic that is prepared from ethyl alcohol with sulphuric acid, but ethyl acetate or acetic ether is prepared from alcohol with acetic acid and contains about 10 per cent of alcohol. Unless we increase 5 per cent to 10 per cent, ethyl acetate and acetic ether will fall back into paragraph 17 and take the higher rate. If you leave it at 5 per cent, it takes care only of the sulphuric ether, which is the anaesthetic.

Mr. President, I sincerely hope that the Senate will agree to this amendment, at least, and not allow those articles to take an extremely high rate, and that is what they will do if the bill passes as reported.

Mr. Johnston of Maine: Mr. President, the reason why the committee used that percentage was because *the expert upon whom we relied* stated, and he now states, that 5 per cent of alcohol is sufficient; that beyond that they should pay the duty which articles containing alcohol pay; but so far as sulphuric ether is concerned, *the expert informs us* that 5 per cent is sufficient . . .

Mr. Cummins: While the Senator from Utah is preparing to answer the question of the Senator from South Dakota, I should like to ask the Senator from Maine whether he disputes the statement made by the Senator from Utah in regard to some of the articles here in their ordinary form, that they would fall under another paragraph with a higher duty.

Mr. Johnson of Maine: I, of course, have no special knowledge of my own about it. I do not pretend to have; but *we had an expert upon whom we relied, and the expert now states to me* that that percentage is sufficient, notwithstanding the statement made by the Senator from Utah.

Mr. Smoot: I will say to the Senator from Iowa that I am perfectly aware that it is sufficient for the sulphuric ether.

Mr. Johnson of Maine: *I have called the expert's attention particularly to the other articles. He is here present. He says it is sufficient for them. I know nothing except what he says . . .*

Mr. Williams: Before the Senator from Utah takes his seat, he has made the assertion that it will take 10 per cent. May I ask the Senator whence he obtains his information?

Mr. Smoot: I obtain my information not only from men who pass upon the rate of duty levied at the port of New York, but from the manufacturers themselves.

Mr. Williams: You have obtained your information from the manufacturers?

Mr. Smoot: Yes; from the manufacturers.

Mr. Williams: Have you obtained your information from any men who are *experts* with regard to these particular matters and found that amount of alcohol to be necessary?

Mr. Smoot: I have.

Mr. Williams: So it is a difference of opinion between your *expert* and the *expert* who serves the Senator from Maine, is it?

Mr. Crawford: What I want to find out is whether we are spending time over some technical classification of ether which may not be in general significance or general use or whether it is something of more consequence. I am sure I do not know.

Mr. Smoot: They are used very extensively.

Mr. Bristow: Mr. President, I should like to ask the Senator from Utah what is the present duty, and whether the proposed duty as he estimates increases or decreases the rate of the present law?

Mr. Smoot: If they fall into paragraph 17, as the wording of the paragraph will take them, then they will carry an increased percentage.

Mr. Stone: Mr. President, while I do not want to be offensive—far from it—I should like to inquire again of the Senator from Utah (Mr. Smoot) just upon what information he bases this positive assertion of his about a technical matter of this kind?

Mr. Smoot: Mr. President, the information upon which I base my statement is obtained *from an expert* who has given me the information and also from the manufacturers of ether.

Mr. Stone: *The expert who gave the information. I am curious, if I may venture the inquiry, to know who this expert is. Whom does he serve—the Government or some private interest?*

Mr. Smoot: He serves the Government; but any Senator has the perfect right to write to New York to find out exactly how these articles enter into this country, the classifications under which they come, and the rates that are imposed upon them, or for any other information connected therewith.

Mr. Stone: But the Committee can not write to the *expert* unless

we know who he is. If he is a Government official, we would like to communicate with him and see whether *the other expert* furnished by the Government of the United States, in the employ of the United States, and supposed to be thoroughly competent in matters of this particular kind, tells the Committee what has been related here in the hearing of the Senate. *This expert is here at the call this moment of Senators.* He states one thing. The Senator from Utah assumes to contradict him and assumes to have some special scientific knowledge of this matter, but when we ask him about it, it seems he quotes from some mysterious man off in New York, who, he says, is in the Government employ. Of course, I accept his statement that the man is in the Government employ; and if so, I should like to question him and the Committee would like to question him. Who is he?

Mr. Smoot: Well, Mr. President, so far as that is concerned, I am not compelled to tell the Senator to whom I write or where I get my information.

Mr. Stone: No; the Senator is not compelled to do so.

Mr. Smoot: I want to say that if the Senator really desires to know, and is interested in finding out, I can tell the Senator and will tell him.

Mr. Williams: I will tell the Senator from Missouri. I have the information here.

Mr. Stone: Very well.

Mr. Williams: *The expert the Committee had was an expert chemist* who happens to have a German name, and I find that this language occurs in some notes and observations compiled by Thomas J. Doherty, Esq., *who is a special attorney* of the Customs Division. *He seems evidently to have been the expert who gave the Senator from Utah his information.* . . .

Now, we will put the *chemical expert* whom the Committee had against the *legal expert* whom the Senator had, and try it out anyhow in the shape of the law as we have drawn it.

The demand for a Tariff Commission is briefly that the standards and guides for fixing tariff duties shall be determined by a non-partisan body of experts. In order that this demand shall be made effective an exact understanding of the composition and powers of the Commission is necessary. Many opponents of the Progressive demand claim to be its friends. They claim to believe in a tariff commission, but the bills they draft provide for commissions of such limited powers as to be practically useless.

For example each of the bills presented by Congressmen Mann, Lenroot and Campbell, three of the Republican leaders in the House, provide that the only penalty for failure to obey the subpoena of the Commission shall be a report of the contumacy to Congress. Inasmuch as the Tariff Commission is not a Committee of the House but a permanent body appointed by the President such a report to Congress is not a means of compelling obedience but simply a futile protest by the Commission against the results of its helplessness. Such a Commission could neither command respect nor produce reliable statistics.

Therefore in explaining the need for a Tariff Commission it is most

important to point out exactly the kind of a Commission needed, what its powers should be and why. In the abstract of the Progressive proposal therefore are included the main arguments for the creation of a permanent, efficient, non-partisan Commission of experts endowed with plenary powers of investigation and a comparison with makeshift insincere proposals.

THE REMEDY.

Section 1. Five Commissioners; ten year terms expiring every two years; salary $7,500. Not more than three members of one political party. The eligibility clause is made more drastic than in any other bill, in providing that no member of the Commission shall hold any other public office and the power of the President to remove is increased to include "Upon proof of ineligibility or any violation of any provision of this act," which means for example that if a commisioner begins to engage in other business contrary to the provisions of the act, he can be removed; a contingency not taken into consideration in other bills.

Sec. 3. The Commission's powers of investigation are broadened and at the same time made more definite. Not only cost of production but selling price, both of raw material and finished products are included. Questions concerning the control of markets and absence or pressure of free competition may be investigated by the Commission so far as pertaining to the tariff question. The exact language of the Progressive program is used in giving the Commission the power to investigate the capitalization of industrial organizations and "the general competitive situation in this country and abroad of industries seeking protection from Congress" and in the language "the revenue producing power of the tariff and its relation to the resources of government. The effect of tariff both of the United States and of foreign countries on prices, on the operation of middle-men, on the wages paid for labor and on the purchasing power of the consumer." In holding hearings the Commission is given the power not only to investigate the cost of production but also the effects and operations of tariff schedules.

Sec. 4. To assist the President, the Commission is empowered not only to make report on the effect of tariff rates, etc., of the United States but of foreign countries on the importation of products both in the United States and in foreign countries. Also by direction of the President, the Commission is authorized to draft a plan for scientific classification of schedules. This scientific classification has been advocated by students of tariff problems for a long time as a powerful aid in eliminating the enormous number of cases constantly litigated to determine what classification the particular imported article should receive.

Sec. 5. The powers of the Commission to compel testimony and the production of documentary evidence given by this section are the crux of the bill. Failure to give such powers leaves the tariff commission without teeth and those persons cannot sincerely claim to support the tariff commission proposition who persist in attempting by their bills to create a Commission which has no power to demand and enforce the production of necessary evidence on which to base reports. The provision in the usual bill that in case of recalitrancy the Commission

shall report the offending person or corporation to Congress, is a sort of slap-on-the-wrist proposition of punishment which is quite absurd. The idea is of course that Congress can refuse to listen to the pleas of such persons and will assume that they are improperly benefiting by tariff rates. In fact, however, Congress could not, and would not, do any such thing. Suppose that half of the wool manufacturers refused to testify and produce books and the other half gave all the testimony desired, the Commission would not have adequate information upon which to survey the woolen industry. Yet Congress could not discriminate against the wicked wool man without also injuring the good wool man who had been ready and willing to give information. In a word, if the law does not give the tariff Commission itself, of its own motion, the power thoroughly and fully to investigate, for efficient results it would be almost as well not to create the Commission at all. To create the Commission so as to rely upon its reports and then to tie its hands so that it cannot serve Congress as it should, is to present to the people the appearance of scientific revision and continue the absurd unscientific fixing of schedules that we have protested against.

To give the Commission "teeth," first it is empowered "To prescribe and enforce uniform systems of accounting." The point of this is of course that the comparison between different industries and the proper consideration of the actual effects of tariffs are exceedingly difficult when the system of accounting in one concern does not compare at all with the system in another, so that costs of production and similar important matters cannot be determined in such a way as to be readily compared.

Sec. 6. In this section is the real difference between this bill and others in the inclusion of "teeth" as above described. The power to compel testimony and require production of books and documents for evidence is fundamentally a judicial power and grave criticisms may be made should this power be given without qualification to the Commission because the Commision would then be practically constituted as a judicial body. But this power can be given to the Commission on the same theory used in the Interstate Commerce Commission Act, by providing that the Commission may invoke the aid of the District Courts of the United States and obtain orders, writs and other processes necessary to produce testimony just as if the hearing were before the court itself. These provisions will be difficult for opponents to criticise because they are based on the precedent followed in other laws, such as the Interstate Commerce Act and the particular provisions here are translated from the tentative bill to create an Interstate Trade Commission included in the report of the Interstate Commerce Committee, in the Senate. Those who propose any method other than this, advocate a toothless commission and subject themselves to the criticism that they are putting forward a sham enactment.

No serious question can be raised as to the constitutionality of this grant. Congress is specifically granted the power to levy and collect taxes and imposts and to pass all legislation necessary and proper to exercise this power. Obviously the taxes, particularly import duties cannot be imposed for the benefit of American manufacturers without accompanying power to investigate domestic industries so as to deter-

mine their needs. If Congress has the power to levy protective duties or duties for revenue it certainly must have the power to require that it be correctly informed as to the measure of protection needed and the measure of revenue obtainable.

Sec. 7. The Commission must undoubtedly have power to keep confidential secret processes and trade secrets and obtain information for confidential use without divulging the names of the informers. This has been recognized in other bills on the subject and the present bill also very carefully limits the powers of the Commission in this regard so that its right to hold secret sessions may not be abused and so that it may not be subjected to pressure from interested persons to continually hold secret sessions which would serve to prejudice public opinion against the Commission and shake public confidence in its reports. For example, the provision in certain bills that the Commission meet upon the request of any witness to take evidence at a secret meeting is most dangerous. The Commission would be continually pressed to hold secret sessions by manufacturers and other producers. Therefore in the present bill the power of the Commission to hold secret sessions is limited strictly to hearings of testimony concerning trade secrets and secret processes which are "not contrary to public policy" and only such are not to be reduced to writing. All other proceedings before the Commission being made matters of written record.

Sec. 8. In this section not only is Congress, but the President permitted to direct special reports, which, in view of the need of the President for information in preparing his messages to Congress and in ascertaining tariff needs at times when Congress shall not be in session seems reasonable. The most important word in this section is that the Commission shall make report to Congress of its investigations and "conclusions." There has been much criticism of the idea that the Commission should "recommend" to Congress, and this has been based upon not only a certain jealousy of power, which is rather an unworthy motive, but also on the reasonable idea that the Commision, if empowered to make recommendations, would tend toward holding the brief for one side or another. In other words if the Commission is forced to take the position of advocate of action by Congress the Commission will tend to become partisan in its advocacy. To meet these points the usual provision is that the Commission shall simply make report. Such a provision seems to have overlooked one highly useful feature of a Commission report. Not only should such an investigative body make the return of the facts but they should also be permitted to analyze these facts for the benefit of non-experts. The average member of Congress cannot by any possibility become, within a few years, an expert on tariff problems. To give the average member, therefore, merely a mass of material concerning products, their cost, selling price, etc., is simply to furnish him with material for an exhaustive study which he is unlikely to have the time to make, and material which he should analyze, which his training has not fitted him to analyze. Therefore, without recommending action by Congress it seems desirable that this Commission should analyze the results of its own investigations so as to present them in understandable shape for the non-expert. To make an arbitrary example, in the case of sugar; assuming a prevailing duty of 1c a pound, the Com-

mission might well report that a rate of somewhere between 75/100 of one cent and 1c would substantially protect American production, but at the same time permit considerable importation; that a duty of 1c to 1½c would tend to prohibit importation; that a duty of less than 75/100 of one cent would tend to free competition between American and foreign sugar, and that a duty of less than ½c would produce a large revenue by heavy importation, at the expense of American production. In other words, in connection with investigative material, there can be little harm and much benefit to be derived from an expert report of conclusions thereon. The action to be taken by Congress will be determined by the political or economic theory controlling Congress in regard to the tariff and by agreement or disagreement with the conclusions of the Commission. But for the benefit of the non-expert, a report of conclusions will be of incalculable value and to prohibit the Commission from making report, seems unnecessarily and wilfully limiting its powers of usefulness.

A BILL.

To Create a Tariff Commission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created a body to be known as the Tariff Commission, which shall consist of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. No person shall be eligible to serve as a member of said commission while holding any other public office of either honor or profit, either by election or appointment, or who is a Senator or Representative elect of the United States. Not more than three of said commissioners shall be members of the same political party. The commissioners first appointed under this Act shall continue in office for the terms of two, four, six, eight, and ten years, respectively, and from the first day of July, anno Domini nineteen hundred and thirteen, the term of each to be designated by the President, but their successors shall be appointed for terms of ten years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. Any commissioner may, after due hearing, be removed by the President upon proof of ineligibility or of any violation of any provision of this Act, or for inefficiency, neglect of duty, or malfeasance in office. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. Said commissioners shall not engage in any other business, vocation, or employment. Each commissioner shall receive a salary of $7,500 per year. The President shall designate a member of the commission to be chairman thereof during the term for which he is appointed. The commission shall appoint a secretary, who shall receive a salary of $5,000 per annum, and such other employees as it may find necessary to the proper performance of its duties and shall fix the salary or compensation of each. Three commissioners shall constitute a quorum for the transaction of business as a commission.

Sec. 2. That the principal office of the commission shall be in the city of Washington, and the Secretary of the Treasury shall furnish the commission with suitable offices and equipment thereof and with all necessary supplies. The commission shall, in addition, have full authority as a body by one or more of its members or through its employees, when so authorized by the commission, to conduct investigations at any other place or places, either in the United States or foreign countries, as the commission may determine. Said commission shall promulgate rules and regulations for the safekeeping of all papers, correspondence, tabulations, reports, explanations, and other information gathered by it. All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation in any place other than in the city of Washington, shall be allowed and paid on the

presentation of itemized vouchers therefor approved by the chairman of the commission.

Sec. 3. That the commission shall have authority and power, and it is hereby directed to ascertain and tabulate for purposes of comparison the difference in the cost of producing articles of the same or similar quality and kind in this country and in actually or potentially competing foreign countries. The commission shall ascertain and tabulate for purposes of comparison where such tabulation is practicable in connection with the several articles covered by its reports in the United States, and in such foreign countries the wages, hours of service, and efficiency of labor employed and the standards of living of such laborers. The commission shall likewise ascertain the cost and selling prices of raw material, the cost of labor, the fixed charges, the depreciation upon the true value of the capital invested, and all other items entering into and determining the true cost and selling price of the finished product. The commission shall ascertain the market conditions and the prices at which protected products of the United States are sold in foreign countries, as compared with the prices of such products sold in the United States. The commission shall investigate the effect of transportation rates upon the markets and prices of dutiable products, and so far as pertinent to the tariffs fixed upon articles on the dutiable list the control of such markets and absence or presence of free competition in the same, and shall, pursuant to the purposes of this Act, in so far as practicable, investigate all questions and conditions relating to the agricultural, manufacturing, mining, commercial, and labor interests with reference to the tariff schedules and classifications of the United States and of foreign countries, and shall investigate the capitalization, industrial organization and efficiency, and the general competitive position in this country and abroad of industries seeking protection from Congress. The commission shall likewise investigate in general and in regard to particular articles the revenue-producing power of the tariff and its relation to the resources of government, and shall investigate the effect of tariffs both of the United States and of foreign countries on prices, on the operations of middlemen, on the wages paid for labor, and on the purchasing power of the consumer. The commission shall also make investigation of any particular subject whenever directed by either House of Congress or the President of the United States. The commission shall have the power to call upon any of the existing departments or bureaus of the Government for information on file in such departments or bureaus which it may require in connection with the work which it is authorized to do by this Act, and it shall be the duty of every such department or bureau of the Government to furnish such information on request from the commission. It shall be the duty of said commission to hold hearings from time to time at such places as it may designate to determine industrial, commercial, and labor conditions in relation to costs of production and effects and operations of the tariff schedules and classifications in force in the United States and in foreign countries. Such hearings shall be public, except as otherwise herein provided. The commission shall, whenever practicable, give at least ten days' public notice of any and all such hearings, and at any such hearing any person may appear before said commission, subject to such reasonable limitation upon the amount of and duplication of testimony and arguments as may be provided by the rules of said commission, and be heard or may be represented by attorney and may file any written statement or documentary evidence bearing upon any matter which the commission may have under investigation. The commission may from time to time make or amend such general rules or orders as may be requisite for the orderly regulation of proceedings before it, including form of notices and the service thereof. Every vote and official act of the commission and of each member thereof shall be entered of record. Any of the members of the commission or its secretary shall have the power to administer oaths and affirmations and to sign notices.

Sec. 4. That to assist the President in securing information as to the effect of tariff rates, restrictions, exactions, or any regulations imposed at any time by the United States or any foreign country upon the importation into or sale in the United States or any foreign country of the products affected, and as to any export bounty paid or export duty imposed or prohibition made by any country upon the exportation of any article to the United States which discriminates against the United States or the products thereof, and to assist the President in the application of the maximum and minimum tariffs and other administrative provisions of the customs laws and in obtaining information concerning the economic results of said

laws, the commission shall from time to time make report as the President shall direct, and upon direction by the President shall draft a plan for scientific classification of schedules in aid of administration of the provisions of the customs laws.

Sec. 5. That for the purposes of this Act in the case of articles on the dutiable list, and such other articles as the commission may decide or may be directed to investigate, the said commission is authorized to require of any person, firm, copartnership, corporation, or association engaged in the production, importation, manufacture, or distribution of any such article or articles the production of all books, papers, contracts, agreements, invoices, inventories, bills, and documents of any such person, firm, copartnership, corporation, or association and make every inquiry necessary to a determination of the value of such property and necessary to accomplish the purposes for which said commission is created. In aid of its powers herein granted to secure information the commission shall have the power, whenever necessary for the purposes of its investigations, to prescribe and enforce uniform systems of accounting for protected industries and for manufacturers and producers of commodities protected by import duties. The commission is authorized to require by notice the attendance and testimony of witnesses and the production of all books, papers, contracts, agreements, inventories, invoices, bills, and documents relating to any matters pertaining to such investigation. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing, and witnesses shall receive the same fees as are paid in the Federal courts.

Sec. 6. That the district courts of the United States, upon the application of the commission alleging a failure to comply with any order of the commission with relation to the attendance and testimony of witnesses and the production of documentary evidence, shall have jurisdiction to issue the necessary process or writs for the enforcement of the orders of the commission, and in case of disobedience to a subpoena the commission or a member thereof may invoke the aid of any one of the district courts of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents within the jurisdiction of such court within which an investigation or inquiry by the commission is being carried on. In case of contumacy or refusal to obey a subpoena issued to any person or corporation subject to the provisions of this Act, any of the district courts of the United States having jurisdiction as herein provided may issue an order requiring such person or corporation to appear before the commission and produce books, documents, and other papers if so ordered and give evidence concerning the matter under investigation by the commission, and any failure to obey such order of the court may be punished by such court as a contempt thereof. The commission may also order testimony to be taken by deposition in any investigation and at any stage of such investigation. Such deposition may be taken before any person authorized so to do by the commission and who has power to administer oaths. Any person may be compelled to appear and depose and produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided. Such testimony shall be reduced to writing. No person shall be excused from attending and testifying or from producing books, papers, documents, or other things before the commission or in obedience to the subpoena of the commission whether such subpoena be signed or issued by one or more of the commissioners or the secretary of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or to subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify under oath or produce evidence, documentary or otherwise, before said commission in obedience to a subpoena issued by it: *Provided,* That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 7. That in any investigation conducted by the commission as herein provided the testimony of any witness in regard to secret processes or trade secrets not contrary to public policy shall not be reduced to writing, nor shall any documents of like character be copied into the records of investigations or otherwise made a part thereof, and for the purpose of obtaining such testimony or of examining such documents, and for such purposes alone, the commission shall have the power to hold secret sessions and take evidence thereat. All other testimony shall

be reduced to writing and, with all other documentary evidence received, incorporated in the records of the commission for the guidance of the commission and for the use of the President and Congress as hereinafter provided: *Provided,* That no evidence or information secured for the confidential use of the commission shall be made public in such a manner as to be available for the use of any business competitor or rival of the firm, copartnership, corporation, or association from whom or concerning whom such evidence or information was obtained: *And provided further,* That in case in any investigation authorized by this Act the commission shall obtain evidence or information for its confidential use, the commission shall not be required to divulge the names of persons furnishing such evidence or information.

Sec. 8. That the commission shall make annual reports to Congress of its investigations and conclusions and such special reports as the President or either House of Congress may direct. The annual reports shall be published and ready for distribution on the first Monday of December of each year. Upon demand of either the President or either House of Congress the commission shall make a report of all testimony and information upon which its reports are based.

Interstate Trade Commission

THE PLEDGE.

"We believe that true popular government, justice and prosperity go hand in hand, and, so believing, it is our purpose to secure that large measure of general prosperity which is the fruit of legitimate and honest business, fostered by equal justice and by sound progressive laws.

We demand that the test of true prosperity shall be the benefits conferred thereby on all the citizens not confined to individuals or classes and that the test of corporate efficiency shall be the ability better to serve the public; that those who profit by control of business affairs shall justify that profit and that control by sharing with the public the fruits thereof.

We therefore demand a strong national regulation of interstate corporations. The corporation is an essential part of modern business. The concentration of modern business, in some degree, is both inevitable and necessary for national and international business efficiency. But the existing concentration of vast wealth under a corporate system, unguarded and uncontrolled by the nation has placed in the hands of a few men enormous, secret, irresponsible power over the daily life of the citizen—a power insufferable in a free government and certain of abuse.

This power has been abused, in monopoly of national resources, in stock watering, in unfair competition and unfair privileges, and finally in sinister influences on the public agencies of state and nation. We do not fear commercial power, but we insist that it shall be exercised openly, under publicity, supervision and regulation of the most efficient sort, which will preserve its good while eradicating and preventing its evils.

To that end we urge the establishment of a strong federal administrative commission of high standing, which shall maintain permanent active supervision over industrial corporations engaged in interstate commerce, or such of them as are of public importance, doing for them what the government now does for the national banks, and what is now done for the railroads by the Interstate Commerce Commission.

Such a commission must enforce the complete publicity of those corporation transactions which are of public interest; must attack unfair competition, false capitalization and special privilege, and by continuous trained watchfulness guard and keep open equally to all the highways of American commerce.

Thus the business man will have certain knowledge of the law, and will be able to conduct his business easily in conformity therewith; the investor will find security for his capital; dividends will be rendered more certain, and the savings of the people will be drawn naturally and safely into the channels of trade.

Under such a system of constructive regulation, legitmate business, freed from confusion, uncertainty and fruitless litigation, will develop normally in response to the energy and enterprise of the American business man.

We favor strengthening the Sherman law by prohibiting agreements to divide territory or limit output; refusing to sell to customers who buy from business rivals; to sell below cost in certain areas while maintaining higher prices in other places; using the power of transportation to aid or injure special business concerns; and other unfair trade practices."

THE FULFILMENT.

H. R. 9299, H. R. 9300, H. R. 9301 ("The Trust Triplets"). Introduced by Representative Victor Murdock of Kansas, Nov. 17, 1913. Referred to the Committee on Interstate and Foreign Commerce.

Interstate Trade Commission

THE NEED.

There is imperative need for decisive legislation by Congress on the problems arising from the domination of industrial conditions by huge business organizations.

Present commercial conditions have been shaped by two conflicting forces: (1) Natural competition; (2) Natural combination.

Despite the natural tendency of each man to control his own business and to compete with his neighbor for business success, combination has been inevitable under the development of modern machinery and the growth of great industrial centers. Large aggregations of capital alone could develop adequately our natural resources. Great transportation systems alone could handle our interstate commerce. Trading corporations of a size to do a nation-wide business alone could give adequate service. As a result increased power and responsibility have come into a few hands. The power has been abused and the responsibility largely ignored. Thus natural combination, instead of being merely a limitation upon, has been destructive of, natural competition.

On account of unfair and oppressive competitive practices public hostility has been aroused against all large combinations of capital, a bitter and not unfounded antagonism of small business men and consumers to large and powerful corporate enterprises. Therefore the solution of our "Trust Problem" is made doubly difficult, because the efficiency and economy due to concentration is lost sight of, by the average citizen, in comparison with the immense evils from which the community has suffered through unfair competition and monopoly.

There are two common attitudes with which one must reckon in this problem.

1. The popularity of a smashing attack on all large enterprises as an outlet for the hostlity of the exploited consumer.

(There is some evidence of the subsidence of this feeling following the total failure of the "dissolution" theory as shown in practical operation against the Oil and Tobacco trusts.)

2. A disposition to regard any effort at control of industrial combinations as an acceptance and fostering of monopoly.

(The extreme advocates of the competitive theory have persistently promoted this misunderstanding by referring to all proposals for the control of combinations as "regulation of monopoly." Such false argument deliberately ignores the fact that neither combination nor size has any necessary relation to monopoly. One small corporation controlling a rare product necessarily used in many industries might be a far greater menace to commerce than a combination of fifty companies representing a total capitalization of half a billion, handling only twenty or thirty

per cent. of a business in which competition by the small capitalist could be made profitable.)

In order, therefore, to understand the spirit of the Progressive Trust Bills, two propositions must be regarded as fundamental.

First, that full opportunity for natural competition must be preserved, and the small business man must be protected from unfair trade practices, but that the arbitrary attempt to force an unnatural competition by law in the face of economic development will inevitably fail to benefit the community.

Second, that natural combination should be permitted, but that such combination must not be permitted to be a means to accomplish monopolistic control.

Accepting these propositions, we arrive at the following intentions:

1. Give voluntary competition free play as a regulator of business so far as it will go.

2. Do not attempt by artificial stimulation to make it go farther and do more than it can.

3. Utilize the benefits of inevitable concentration as far as possible. Business will not and cannot go back to the gristmill and the blacksmith's forge.

4. Where concentration would go beyond efficient service into monopolistic exploitation—stop it.

With these considerations in mind a statement of the principles on which the "trust triplets" are based is herewith presented in the language of Dean William Draper Lewis of the University of Pennsylvania Law School.

I. Private Monopolistic Power is Contrary to Public Welfare.

"That industrial monopolies are an evil can here be assumed without special exposition. True, it is now well recognized that in certain activities, such as telephone and gas companies, competition means expense and discomfort to the public. And even in other fields outside of what are now recognized as public utilities it may possibly be shown that the interest of the community demands a single service rather than competing enterprises. But in the absence of the corrective force of natural competition there must be an equally powerful force requiring service to the community. Where the obligation of public service is not recognized and enforced the monopoly by private persons of a product necessary to the people is an unmixed evil. Such monopoly is incompatible with the existence of a state organized to promote the welfare of the whole people.

II. Monopoly is Dependent on the Power to Determine Price Policy.

"With this ability not present there is no monopoly. If this is present, monopolistic power—which is the power to exclude competition—is found.

"When prices in an industry are regulated by competition, other factors of interest to the consumers, such as the character of the product or service, are also regulated by the same force; but when prices are

controlled by combination, there is unlikely to be effective competition in respect to either products or service. The problem presented by the existence of a trust, is how to destroy the potential ability of the 'combination' to control price policy.

III. The Primary Object of Anti-trust Legislation Should Be, Not the Destruction of the Combination Possessing Monopolistic Power, but the Ascertainment and Removal of the Basis on which That Power Rests.

"As has been pointed out by the Supreme Court, the idea of monopoly involves both 'unity' and 'exclusiveness.' We cannot think of monopolistic power being possessed by a group of persons or corporations who do not own, operate or organize their businesses, so as to constitute substantially a business unit, however informal their combination or organization from a legal point of view. Those who combine may do so by forming a single corporation, or the substantial unity of their businesses may be effected by a contract between several corporations, or it may rest on nothing more than tacit understanding. But no particular form of organization is necessary.

"Again we cannot think of a person or group of persons possessing monopolistic power unless they have the ability to exclude competition. Combination does not necessarily result in monopoly. Those who combine, even if they do so with the intent to exclude competition, to be successful must have a basis on which to rest their power other than their wealth or size, although it is true that a trust or monopoly always involves a combination express or implied. It was, therefore, natural that the framers of the Sherman Anti-Trust Act believed that the dissolution of the trust would destroy the monopolistic power of those who controlled it. But our experience with that act indicates that all that is accomplished is the destruction of the existing form of combination. As those who have combined under the particular form of combination destroyed still collectively possess monopolistic power, they naturally re-combine in a different form to reap the benefit of that power. Instead, therefore, of being directed towards the dissolution of the particular form of organization, legislation should be directed primarily to the removal of the basis on which the monopolistic power of the combination rests. Where this is discovered and removed all motive for further combination with intent to monopolize ceases. Of course where the particular form of combination is an essential element of the monopolistic power it should be dissolved.

"For instance, all the manufacturers engaged in producing an article or group of articles combine to regulate production and prices. Here the combination itself should be destroyed. On the other hand, one corporation controlling perhaps only fifty per cent. or less of the total product may possess complete control of prices, either because of its control of the natural resources furnishing the raw material on which the industry depends, or because of its known willingness to destroy by unfair or oppressive trade practices any competitor who disturbs its control of the price policy of the industry. In this case to dissolve the corporation serves no useful purpose. It is its monopoly of material re-

sources, or its unfair trade practices which should be destroyed or restrained.

IV. The Basis of the Monopolistic Power of the Industrial Trust is Either (1) the Ability and the Will to Engage in Unfair or Oppressive Trade Practices Injurious to Competitors, or, (2) the Control of a Factor, Essential to the Successful Conduct of the Industry, or, (3) the Control of all or Substantially all the Product.

"The control of all or substantially all the product unaccompanied by the control of any factor essential to the successful conduct of the industry, can create but a temporary monopoly. Such control, therefore, as a basis of monopolistic power is comparatively unimportant. On the other hand, where monopolistic power is obtained and retained by unfair trade practices, or the threat of such practices, or where it is based on the control of an essential factor in the industry, as transportation facilities, natural resources, or any other economic condition inherent in the industry unless the basis of the monopoly is removed the monopoly in one form or another will be perpetuated.

V. The Elimination of the Basis of Monopolistic Power and the Restoration of Competition is an Administrative Problem which Can Be Successfully Solved Only by an Industrial Commission.

"In every case of alleged monopoly there are three things to determine: (1) Does the alleged monopoly exist in fact? (2) What is the basis of the monopolistic power? (3) What should be done to destroy the basis of that power? The determination of the first or second question is impossible, in view of the complicated nature of modern industrial conditions, except by creating a Commission possessing all the powers of the Interstate Commerce Commission to investigate facts and require from the corporations subject to its jurisdiction information in regard to organization, management and financial control. Where it is ascertained that the cause of the monopolistic power is unfair or oppressive trade practices, the Commission must have power to prohibit those practices, and to obtain the help of the courts to enforce their orders. Where the monopolistic power rests on the control of an essential factor in the industry the Commission must have the power to adapt its remedial orders to the facts of the particular case. It would be futile to attempt to specify in advance all the circumstances which should be deemed to constitute monopolistic power, or direct the exact orders to be given for the removal of each class of causes of that power. Each trust presents a distinct problem. The administrative body charged with the execution of the law must have extensive and flexible powers.

"Anti-Trust legislation will not effect its purpose until we are willing to face the fact that the administrative problem of ascertaining in any given case, whether in fact a monopoly exists, and, if it exists, the basis on which its power rests, is beyond the power of the courts as at present constituted. The judge, crowded with other business, has neither the training nor the time to acquire the training necessary to deal with the problem. It is for this reason that the enforcement of anti-monopoly

legislation should be placed in the hands of an Administrative Commission, provision being made for appeal to the courts as in the case of the Interstate Commerce Commission."

THE REMEDY.

With these propositions in mind we may examine the bills in detail.

The first bill provides for a commission with adequate power to ascertain all facts concerning the corporations subject to its jurisdiction.

The second bill empowers the Federal Commission to terminate by executive order unfair competition and other forms of vicious practices.

The third bill gives to the commission the duty and the means to compel the organization and conduct of business in a manner to insure the preservation of competitive conditions.

Bill No. 1. To Create an Interstate Trade Commission.

This bill provides for the creation of an interstate trade commission consisting of seven members appointed by the President for terms of seven years each, one term expiring every year. Each commissioner is to receive a salary of $10,000 in order that men of requisite calibre may be drafted into the service.

To avoid swamping the commission with the impossible task of supervision over a myriad of small businesses of no public significance, its jurisdiction is limited to those corporations or associations whose gross annual receipts from business within the United States exceed three million dollars, excluding from the jurisdiction those corporations coming within the jurisdiction of the Interstate Commerce Commission. The term "corporation or association" includes not only all business associations incorporated and unincorporated, but any group of such associations owned, operated, controlled or organized as to constitute substantially a business unit.

The first power and duty conferred upon the Interstate Trade Commission is to obtain from the concerns subject to it, complete information as to their "organization, conduct, management, security holders, financial condition and business transactions; and to require from such concerns complete access at all reasonable times to their records, books, accounts, minutes, papers and all other documents, including the records of any of their executive or other committees." In addition, power is given the commission to require uniform and comparable methods of accounting in order that the statistics prepared by the commission may be effectively intelligible. This simple power of compelling uniform and intelligible accounting exercised by the Interstate Commerce Commission over railroads has gone very far to correct improper transactions, as well as to make railroad securities a safe form of investment. The same advance can be achieved in industrials.

The Commission is empowered to enlighten the public by pointing out all cases of material over-capitalization, unfair competition, misrepresentation, or oppressive use of credit.

In view of the numerous difficulties in enforcing decrees of dissolution entered under the Sherman Act, an incidental power given to the commission is to make an investigation and report as to the best method

of carrying out such a decree when the court having jurisdiction shall request such a report.

The Interstate Trade Commission has been given "teeth" in the grant of plenary powers to require the giving of testimony and the production of all documents needed for its investigations and to invoke the aid of the United States Courts in compelling obedience to its orders. These powers are most elaborately worked out in Section 5 of this bill, and the subsequent sections make it the duty of corporations or associations and individuals to assist and to obey the commission in matters within its jurisdiction, under penalties of fine and imprisonment.

Bill No. 1 therefore creates a commission with power to ascertain facts in relation to corporations subject to its jurisdiction, and gives the commission power to sweep away from illegitimate business the protections of secrecy. Its enactment would create a permanent force of experts trained in the complexities of business, and devoting their whole time to the one work.

Bill No. 2. To Empower the Interstate Trade Commission to Prevent Unfair Competition.

Bill No. 2 commences with the declaration "That unfair or oppressive competition in commerce, among the several States and with foreign nations, as hereinafter defined, is hereby declared to be unlawful." The bill then proceeds to enumerate various unfair business practices. Among the business practices definitely condemned in section three are: The acceptance or procurement of rates or terms of service from common carriers not granted to other shippers under like conditions; the acceptance or procurement of rates or terms of service declared unlawful by the Elkins Act; arbitrary discrimination in selling prices between localities or individuals; obtaining secrets of competitors by bribery and like means, or procuring dishonest conduct by employees of competitors; making oppressive exclusive contracts for the sale of articles over which the seller has a substantial monopoly; maintaining secret subsidiaries or agencies held out as independent; and the use of interlocking directorates to destroy competition.

It will be observed that all of the unfair trade practices thus specifically prohibited, have already been declared illegal by the courts, or by other statutes, or are such as are unanimously condemned as unfair by the common experience of mankind. The law of unfair trade, as other branches of the law of tort, has been and is being constantly developed by the courts, as new conditions make possible new ways of wronging a competitor, or greater experience or improving morals cause acts, formerly regarded as innocent, to be looked upon as unlawful. To attempt to arrest this process by codifying all the acts which one should regard as unfair in trade would be most unfortunate. Instantly some new practice would be found not covered by the code, which practice would nevertheless be essentially unfair.

Section 3 (h) of the bill therefore declares that any other business practice involving unfair or oppressive competition shall be so regarded, while section 4 gives to the Interstate Trade Commission power "to make, alter, or repeal regulations further defining more particularly the practices and business transactions of unfair or oppressive competition." This is

merely lodging in the commission a power heretofore exclusively exercised by the courts. The court's power is in no wise lessened. The Commission's power further to define unfair trade practices is subject to review by the courts. If the Commission declares a certain practice unfair, the courts would properly refuse to enforce the order if, in their opinion, the practice condemned was not unfair. The great practical advantage of lodging the power further to define more particularly unfair practices in the Commission, is that the business world will know before it acts what the Commission thinks unfair, while the courts in finally determining the law will have the inestimable advantage of the opinion of a body of experts.

Having established what are unfair business practices the Interstate Trade Commission is given the power to summon a corporation or association to appear before it and show cause why an order should not be issued by the commission restraining the concern from engaging in a designated form of unfair competition. If a corporation refuses to obey such an order the commission is empowered to invoke the aid of a district court of the United States, and the court is authorized to enforce the orders of the commission, by injunction, or in case of violation of injunction, to restrain the offender from engaging in Interstate Commerce.

Bill No. 3. To Empower the Interstate Trade Commission to Protect Commerce Against Monopolies.

In this Bill the commission is empowered and directed upon its own initiative or upon complaint to investigate any corporation or association subject to its jurisdiction, to determine whether or not such concern exercises "substantially monopolistic power."

In the second section it is provided that a corporation or association "shall be regarded as exercising 'a substantially monoplistic power' whenever such corporation or association, not being subject to the obligation of public service, in the given industry in question exercises control over a sufficient portion of such industry or over sufficient factors therein, to determine the price policy in that industry either as to raw materials or finished or partly finished products." Such power is thereupon declared to be contrary to public policy.

In the investigation of alleged "monoplistic power" it is made the duty of the commission to determine whether the power has an artificial or natural basis. The duty of the commission upon finding that the monopolistic power is based upon unfair competition, that is, has an artificial basis, is plainly to enforce the provisions of the second bill. But the commission may find that the alleged monopolistic power is founded upon one of the so-called natural bases which for the purpose of the Bill are defined as:

(aa) Control of natural resources.
(bb) Control of terminal or transportation facilities.
(cc) Control of financial resources.
(dd) Any other economic condition inherent in the character of the industry, including among such conditions, patent rights.

If the Commission shall find that a corporation or association exercises "substantially monopolistic power" based, not on wrongdoing, but

on a so-called "natural basis," it is made the duty of the commission to issue an order to the concern "specifying such changes in the organization, conduct or management of its property and business as in the opinion of the commission will most effectively and promptly terminate, such monopolistic power while at the same time safeguarding property rights and business efficiency."

In Section 6, it is provided that when a corporation or association refuses to comply with the order of the commission specifying the necessary changes to terminate monopolistic power, the commission may apply to a district court of the United States "for the appointment of a supervisor or supervisors of such corporation or association, and it shall be the duty of such court upon such request by the commission to appoint for a limited time such supervisor or supervisors for such corporation or association, and to give such supervisors such powers as are usually granted to receivers and full power of such direction and control over the organization, conduct and management of such corporation or association and the business and property thereof as shall be best fitted to carry into effect the order of the commission."

Following this procedure the supervisors report to the commission regarding the organization and business effected, and are granted the power to carry out the further orders of the commission in order that the commission may be intimately informed as to the best methods for terminating the monopolistic power involved, and in order that in the meantime the business may be run for the benefit of the investor and the community alike. When a definite plan has been worked out whereby the corporation may be restored completely to its private ownership under terms guaranteeing the protection of commerce, the court may in terminating the supervisory control "in order to insure the permanency of competitive conditions include in its decree a provision submitting the supervised corporation or association and its business or any part thereof to the supervision or direction of the commission for such time and in such manner as said court shall fix."

It may be that the solution of a particular question involved in the acquirement of monopolistic power will be the separation of one factor of the business, establishing either its independence or its subjection to the obligation of public service. It may be that the solution will be the separation of a concern into two or more parts which will necessarily be responsive to natural competition. It may be merely a change in an administrative form of management, such as the breaking up of an interlocking directorate or some similar purely mechanical change. These are not questions to which the answers can be worked out in advance in a law. They are properly matters of administration.

Comparison with the Sherman Act.

It remains but to compare the legislation proposed in these bills with the Sherman Anti-Trust Act. That Act condemns combinations in restraint of trade or commerce making such combinations criminal offenses and also makes it criminal to monopolize or attempt to monopolize trade or commerce. The Act does not contain a definition either of restraint of trade or monopoly. If by "monopoly" is meant only a successful attempt to monopolize, and that to prove a violation of the Act it must

be proved not only that the combination controls prices, but that it has recently wilfully carried on a course of conduct to that end, then the proposed legislation has a wider sweep of condemnation, for in the proposed legislation monopolistic power, however and whenever obtained is declared contrary to public welfare. If, however, to "monopolize" in the Sherman Act means to have monopolistic power, then, of course, there is no difference in the scope of the things condemned in the second section of the Sherman Act and in the Third Bill.

The court in interpreting the first section of the Sherman Act now seems inclined to hold a contract or combination in restraint of trade to be one which gives to any one, to some, or all of the parties monopolistic power. If this interpretation is adhered to then nothing is condemned in this section of the Sherman Act which is not condemned in the third Bill. Under the third Bill the court has power to dissolve any contract or combination if such dissolution would most effectively and promptly terminate monopolistic power. If this is not the meaning of the first section of the Sherman Act it is difficult to say what it does mean. To contend that a contract or combination in restraint of trade is any contract or combination which prevents competition between the parties would make the Act absurd on its face, as such interpretation would make an agreement of partnership between two rival concerns, when perhaps collectively they did not control a hundredth part of the product of the trade, a criminal combination. It is needless to say that the proposed legislation does not condemn such a contract, and if the first Section of the Sherman Act does in part do so, it becomes a pernicious piece of legislation impossible of enforcement.

A fundamental difference between the Sherman Act and the Bills under discussion lies in the conception of the way in which the problem presented by the industrial trust should be approached. The Sherman Act assumes that monopoly invariably depends on combination, and that all that is necessary to destroy the power of the trust, is to dissolve each form of combination as it arises. The proposed bills on the contrary proceed on the assumption that monopolistic power is based on some natural cause or on the ability and willingness to carry on a course of unfair and oppressive conduct towards competitors. As a result the Sherman Act strikes at combination, while the proposed legislation attacks the causes which give to the combination its monopolistic power. Again, the Sherman Act assumes that the possession of monopolistic power, at least where it has been recently acquired as the result of a course of conduct, is criminal and must be punished by jail or fine. The proposed bills on the contrary, proceed on the assumption that monopolistic power may in many cases be obtained without moral guilt, and that in any case the effective way to deal with those who possess it, is not to threaten them by statute with jail or fine on convictions which are almost impossible to obtain, but to subject them to administrative orders designed, while respecting property rights and avoiding interference with business efficiency, to destroy their monopolistic power.

How far industry in this country at the present time is controlled by trusts is a question on which persons may differ. No one possesses a knowledge of the facts sufficient to give an answer to the question. But of this we can be assured, that the way to make the trust problem acute

is to leave it alone or to treat it in the inadequate way which we are treating it at present. Power grows on what it feeds on. It is easier to deal with a new trust than one long entrenched. Those who have been interested in the drafting of this bill personally believe that the very existence of the Commission provided for will tend to prevent attempts at monopoly; that the monopolistic power of many of the trusts now existing is based on their power and willingness to engage in unfair and oppressive competition, and that therefore the more extensive power lodged in the commission for use when the trust is based on natural causes, will rarely have to be exercised. But the surest way to lead this country in the near future into an era of price regulation or even government ownership of industry, is to do nothing now effectively to check the growth of industrial monopoly, or, creating a commission, to deny to it adequate power to end each existing monopoly irrespective of the basis on which its monopolistic power depends. The proposed legislation may be objected to as drastic. It may be criticized as giving too sweeping powers to a commission. But nothing is more irresponsibly powerful than a private monopoly, and the state in dealing with it should not itself hesitate to exercise power.

Herbert Knox Smith, former Commissioner of Corporations (1904-1912) contrasts the practical operation of the Sherman Act with the purposes of the proposed bills in the following language:

"Anyone familiar with the ludicrous results of the enforcement of the Sherman Law in the Standard Oil and American Tobacco Company cases will agree that the Sherman Law is wholly inadequate. The inside group that always controlled the Standard is now, because of that law, in stronger control of the real business of that Company than ever before.

"The enforcement of the Sherman Law simply "dissolves" a combination into its constituent elements. Such action does not result in controlling or even hindering monopoly. Such dissolution does not restore competition. It did not in the Standard Oil case. There never was, for example, any competition between the National Transit Company (pipe line), and the Acme Oil Company (refinery); both formerly under the Standard. Separating these two cannot make them compete.

"If, on the other hand, an expert commission had taken up this problem, its first order would have required that all the pipe lines of the Standard act as common carriers, serving all producers and refiners alike under the obligation of public service. This would have gone farther than anything else to break the Standard's monopolistic power, which is now and always has been based primarily on special privileges and special advantages in transportation.

"The Sherman Law simply applies, blindly, to all cases, one remedy, i. e., dissolution; that is, dissolution on the lines of legal organization, not on the lines of economic conditions. What is required is a body that (1) knows what remedy is needed to meet the particular case, and (2) has power to apply the remedy promptly without years of litigation, whether that remedy be division, reorganization, or the imposing of public service obligations."

Conclusion.

No set rule can be nor should be laid down and applied to all cases alike. The standards of fair business, the standards of safe business

should be prescribed by the law of the land, and it should be made the duty of an executive body of adequate power and prestige to enforce such standards, to the end that big and little business alike shall prosper; to the end that natural competition between man and man shall be preserved; to the end that through both natural combination and natural competition the nation's business shall be adequately developed; and to the end that there shall always be either the great power of a natural force or of a national law superior to the power of any private enterprise.

A BILL.

To Create an Interstate Trade Commission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created and established an Interstate Trade Commission, which shall consist of seven members. On January first, nineteen hundred and fourteen, the Bureau of Corporations shall cease to exist, and all the employees, officials, funds, and records of said bureau, and all the powers and duties thereof and of the Commissioner of Corporations shall be transferred to and conferred upon the Interstate Trade Commission. The Commissioner of Corporations holding such office on said date shall be ex officio a member of the commission for the first year of its existence. The remaining six members of the commission shall be appointed by the President, by and with the advice and consent of the Senate, and the terms of office of such commissioners so first appointed shall be for two, three, four, five, six, and seven years, respectively, from January first, nineteen hundred and fourteen, as designated in each case by the President, and thereafter all the commissioners shall hold office for seven years and be appointed by the President, by and with the advice and consent of the Senate. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. The commission shall choose a chairman from its own membership and appoint a secretary, who shall receive a salary of $5,000 a year. The commissioners shall each receive a salary of $10,000 a year. A majority of the commission shall constitute a quorum for the transaction of business, but any one of the members of the commission may administer oaths and affirmations and sign subpoenas. The commission may, by one or more of the commissioners, prosecute any inquiry necessary to its duties in any part of the United States into any matter or question of fact pertaining to the business of any corporation or association subject to the provisions of this Act. All orders adjudicating matters in controversy before the commission shall be approved by a majority of the commissioners.

Sec. 2. That every corporation or association shall be subject to the jurisdiction of the commission which is engaged in commerce among the several States or with foreign nations, and which, by itself or with one or more other corporations or associations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has annual gross receipts exceeding $3,000,000 from business within the United States, excepting corporations or associations subject to the Act entitled "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, as amended, but including pipe-line companies.

Sec. 3. That the term corporation or association, as used in this Act, shall include all incorporated associations of two or more persons organized to carry on business as coowners with a view to profit and all unincorporated associations of two or more persons organized to carry on business as coowners with a view to profit.

Sec. 4. That it shall be the duty of the commission and the commission shall have the power—

(a) To determine whether any corporation or association engaged in commerce among the several States or with foreign nations, excepting corporations and associations, subject to the Act entitled "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, as amended, but including pipe-line companies, is subject to the jurisdiction of the commission, and to deter-

mine whether any particular number or group of such corporations or associations are so owned, operated, controlled, or organized as to constitute substantially a business unit, having annual gross receipts exceeding $3,000,000 from business in the United States and are therefore subject to the jurisdiction of the commission. The determination of such questions of jurisdiction by the commission shall be final.

(b) To require from all corporations or associations, subject to the jurisdiction of the commission, information as to their organization, conduct, management, security holders, financial condition, and business transactions to such a degree and extent and in such form as the commission may require, and to require from such corporations or associations complete access at all reasonable times to their records, books, accounts, minutes, papers, and all other documents, including the records of any of their executive or other committees.

(c) To make, alter, enforce, and repeal regulations proper and necessary to enforce the provisions of this Act.

(d) To require, by regulations duly made, uniform or comparable methods of accounting by the corporations or associations subject to the jurisdiction of the commission, and to prescribe the forms of accounting necessary to that end.

(e) To make public, from time to time, the information received by it in such form and to such extent as the commission shall by regulations prescribe.

(f) To point out and make public, from time to time, specifically and separately, in such form and to such extent as in the discretion of the commission will best advance fair, honest, and efficient business, all cases of material over-capitilazation, unfair competition, misrepresentation, or oppressive use of credit of which any corporation or association subject to the jurisdiction of the commission may have been guilty, and whenever any action of such corporation or association shall, in the opinion of the commission, constitute a violation of the laws of the United States, to present such case to the Attorney General for prosecution.

(g) To make an annual report which shall be transmitted to Congress, setting forth data obtained by the commission relevant to the general question of the regulation of interstate commerce, together with any recommendations for further legislation which the commission may desire to present.

(h) To make an investigation and report as to the methods best adapted to the carrying out of a final decree of dissolution under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, when such a decree shall have been entered against any corporation subject to the jurisdiction of the commission and when the court having jurisdiction of the enforcement of such decree shall refer the case to the commission for its action as herein provided.

Sec. 5. That for the purposes of this Act and in aid of its powers herein granted the commission shall have power to compel the attendance and testimony of witnesses and the production of documentary evidence equivalent so far as applicable within its jurisdiction to the power conferred upon the Interstate Commerce Commission in the Act entitled "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, as amended, and specifically the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, contracts, agreements, documents, or other things of every kind and nature whatsoever relating to any matter under investigation by the commission. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing, and in case of disobedience to such subpoena the commission, or any party to a proceeding before the commission, may, with the aid of the commission, invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

And any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued by the commission to any corporation or association, subject to the provisions of this Act, or other person, issue an order requiring such corporation or association, or other person, to appear before said commission (and produce books, documents, and papers, if so ordered) and give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying.

The testimony of any witness may, with the consent of the commission, be taken at the instance of a party in any proceeding or investigation pending before the commission by deposition at any time after the inquiry is instituted. The commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such deposition may be taken before any person authorized so to do by the commission and who has power to administer oaths.

Any person may be compelled so to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided. Such testimony shall be reduced to writing.

Witnesses whose testimony is taken under the provisions of this Act shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

No person shall be excused from attending and testifying, or from producing books, papers, documents, or other things before this commission, or in obedience to the subpoena of the commission, whether such subpoena be signed or issued by one or more of the commissioners on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify under oath or produce evidence, documentary or otherwise, before said commission in obedience to a subpoena issued by said commission: *Provided,* That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. The purpose of this provision is to give immunity only to natural persons who under oath testify in response to a subpoena of the commission or produce evidence, documentary or otherwise, under oath, in an inquiry instituted by the commission, in response to such subpoena.

And to carry out and give effect to the provisions of this Act the commission is hereby authorized to designate and employ special agents or examiners, who shall have the power to administer oaths, examine witnesses and documentary evidence, and receive evidence.

Sec. 6. That it shall be the duty of every corporation or association subject to the provisions of this Act to comply with the terms hereof, and to comply with the orders and subpoenas of the commission issued pursuant to the authority herein granted, and it shall be the duty of every corporation, association, or person to furnish to the commission such information as the commission may deem necessary and proper to determine whether any corporation or association is subject to the jurisdiction of the commission.

Sec. 7. That it shall be the duty of every corporation or association subject to the jurisdiction of the commission, within four months after January first, nineteen hundred and fourteen, or, if becoming subject thereto after said date, then within two months after so becoming subject thereto, to file with the commission written statements under oath showing such facts as to its organization, conduct, financial condition, management, security holders, operations, and business transactions as may be prescribed by the commission, and it shall be the duty of every corporation or association subject to the jurisdiction of the commission, to furnish to the commission from time to time such information as to its organization, conduct, financial condition, management, security holders, operations, and business transactions, and to such degree and extent and in such form as may be prescribed by the commission, and to afford to the commission or its duly authorized agents complete access to all its records, books, accounts, minutes, and papers, and all other documents including the records of any of its executive or other committees.

Sec. 8. That neglect or failure by any corporation or association or by the officers or agents of any such corporation or association, subject to any of the provisions of this Act, to comply with the terms hereof or failure or refusal to furnish information required by the commission within sixty days after written demand for such information, shall constitute a misdemeanor and shall be punished by fine of not more than $100 for each and every day of the continuance of such neglect or failure. Any person who shall willfully make or give to said commission any false or deceptive return or statement required by this Act, knowing the same to be false or calculated to deceive in any material particular, shall be deemed to be

guilty of a misdemeanor and upon conviction shall be punished by fine of not more than $5,000 or by imprisonment for not more than two years, or by both fine and imprisonment.

Sec. 9. That if any provision or requirement of this Act shall for any reason be held unconstitutional the validity of the remaining provisions or requirements of this Act shall not be affected thereby.

A BILL.

To Prohibit and Prevent Unfair Competition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That unfair or oppressive competition in commerce among the several States and with foreign nations as hereinafter defined is hereby declared unlawful.

Sec. 2. That the Interstate Trade Commission is hereby empowered and directed to prevent all corporations or associations subject to the jurisdiction of said commission from engaging in or practicing such unfair or oppressive competition.

Sec. 3. That unfair or oppressive competition as used in this Act is hereby defined to include the following business practices and transactions:

(a) The acceptance or procurement of rates or terms of service from common carriers not granted to other shippers under like conditions.

(b) The acceptance or procurement of rates or terms of service from common carriers declared unlawful by the Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, as amended.

(c) Discrimination in selling prices as between localities or individuals which is not justified by differences in cost of distribution.

(d) Procuring, by bribery or any illegal means, information as to the secrets of competitors, or procuring conduct on the part of employees of competitors inconsistent with their duties to their employers.

(e) The making of oppressive exclusive contracts for the sale of articles of which the seller has a substantial monopoly, whether by patent or otherwise, or oppressive exclusive contracts depending upon or connected with such articles.

(f) The maintenance of secret subsidiaries or secretly controlled agencies held out as independent of the corporation or association controlling the same and used for any of the foregoing purposes of unfair competition.

(g) The destruction of competition through the use of interlocking directorates.

(h) Any other business practices involving unfair or oppressive competition.

Sec. 4. That the Interstate Trade Commission is empowered to make, alter, or repeal regulations further defining more particularly the practices and business transactions of unfair or oppressive competition.

Sec. 5. That whenever the Interstate Trade Commission shall have reason to believe that any corporation or association subject to its jurisdiction has been or is engaged in unfair or oppressive competition it shall issue and serve upon said corporation or association a written order, at least thirty days in advance of the time set therein for hearing, directing said corporation or association to appear before said commission and show cause why an order shall not be issued by said commission restraining and prohibiting said corporation or association from such practice or transaction, and if upon such hearing the commission shall be of the opinion that the practice or transaction in question is prohibited by this Act it shall thereupon issue such order restraining the same. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this Act.

Sec. 6. That whenever said commission, upon the issuing of such restraining order, shall find that said corporation or association has not complied therewith said commission may petition the District Court of the United States, within any district where the act in question took place or where the said corporation or association is located or carries on business, asking said court to issue an injunction to enforce the terms of such order of the commission; and such court is hereby authorized to issue such injunction, and also, in case of any violation of such injunction, in the discretion of the court, to issue an order restraining and enjoining said corporation or association from engaging in commerce among the several States and with foreign nations for such time as said court may order.

Sec. 7. That this Act shall not be construed to affect or in any way modify the powers heretofore granted to the Interstate Commerce Commission or the Attorney General under the "Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the amendments thereof.

Sec. 8. That if any provision or requirement of this Act shall for any reason be held unconstitutional, the validity of the remaining provisions or requirements of this Act shall not be affected thereby.

A BILL.

To Protect Commerce Against Monopolies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Trade Commission is hereby empowered and directed at any time, either upon its own initiative or upon the representation or complaint of any person, corporation, or association, to investigate the organization, conduct, and management of any corporation or asscіation subject to the jurisdiction of the said commission for the purpose of determining whether such corporation or association exercises a substantially monopolistic power in any industry in which said corporation or association is engaged.

Sec. 2. That any such corporation or association shall be regarded as exercising "a substantially monopolistic power" whenever such corporation or association, not being subject to the obligation of public service in the given industry in question, exercises control over a sufficient portion of such industry or over sufficient factors therein to determine the price policy in that industry, either as to raw materials or finished or partly finished products. Such substantially monopolistic power exercised over commerce among the several States or with foreign nations is hereby declared to be contrary to public policy.

Sec. 3. That whenever after such investigation the said commission shall find that such corporation or association exercises such substantially monopolistic power the commission is hereby further empowered and directed to determine by such further investigation as may be necessary whether such monopolistic power is based primarily on artificial or on natural bases.

Artificial bases shall, for the purposes of this Act, be defined as—

(a) The acceptance or procurement of rates or terms of service from common carriers not granted to other shippers under like conditions.

(b) The acceptance or procurement of rates or terms of service from common carriers declared unlawful by the Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, as amended.

(c) Discrimination in selling prices as between localities or individuals which is not justified by differences in cost of distribution.

(d) Procuring by bribery or any illegal means information as to the secrets of competitors, or procuring conduct on the part of employees of competitors inconsistent with their duties to their employers.

(e) The making of oppressive exclusive contracts for the sale of articles of which the seller has a substantial monopoly, whether by patent or otherwise, or oppressive exclusive contracts depending upon or connected with such articles.

(f) The maintenance of secret subsidiaries or secretly controlled agencies held out as independent of the corporation or association controlling the same and used for any of the foregoing purposes of unfair competition.

(g) The destruction of competition through the use of interlocking directorates.

(h) Other business practices involving unfair or oppressive competition of like character as above set forth.

Natural bases shall, for the purposes of this Act, be defined as—

(a) Control of natural resources.

(b) Control of terminal or transportation facilities.

(c) Control of financial resources.

(d) Any other economic condition inherent in the character of the industry, including, among such conditions, patent rights.

Sec. 4. That whenever the commission shall find that any corporation or association subject to its jurisdiction exercises a substantially monopolistic power, based primarily on artificial bases as herein defined, it shall be the duty of the

commission to proceed forthwith to terminate such monopolistic power by the exercise of its powers heretofore granted to restrain and prohibit unfair or oppressive competition.

Sec. 5. That whenever the commission shall find that any corporation or association exercises substantially monopolistic power, based primarily on a natural base or natural bases as herein defined, said commission shall issue and serve upon such corporation or association a written order to said corporation or association specifying such changes in the organization, conduct, or management of its property and business as in the opinion of the commission will most effectively and promptly terminate such monopolistic power, while at the same time safeguarding property rights and business efficiency. The commission in said order shall fix a reasonable time within which the changes ordered shall be put into effect by such corporation or association.

Sec. 6. That whenever any corporation or association upon which such an order has been served as is provided for in section five of this Act shall refuse or neglect to comply with the same, the commission shall apply to the district court of the United States in any district where such corporation or association is located or carries on business, asking for an order by said court for the appointment of a supervisor or supervisors of such corporation or association, and it shall be the duty of such court, upon such request by the commission to appoint for a limited time such supervisor or supervisors for such corporation or association and to give such supervisors such powers as are usually granted to receivers and full power of such direction and control over the organization, conduct and management of such corporation or association and the business and property thereof as shall be best fitted to carry into effect the order of the commission. The supervisor or supervisors shall from time to time, upon the request of the commission, make full report to the commission as to the organization and business of such corporation or association, and said supervisor or supervisors shall have power to carry out any further orders which the commission shall from time to time make relating to such corporation or association.

Sec. 7. That any court in terminating a supervisorship imposed as provided in section six of this Act may, in order to insure the permanency of competitive conditions, include in its decree a provision submitting the supervised corporation or association and its business, or any part thereof, to the supervision or direction of the commission for such time and in such manner as said court shall fix, and the commission shall be empowered to exercise such supervisory or directory power as shall be conferred in said decree.

Sec. 8. That whenever the commission shall conduct an investigation for the purpose of determining whether a corporation or association exercises substantially monopolistic power as defined in this Act or of determining the basis of such power, reasonable opportunity shall be granted in the course of the investigation to such corporation or association to be heard or to present evidence in its own behalf; and before the entry of any order requiring changes in the organization, conduct, or management of the property and the business of any corporation or association the commission shall issue and serve upon such corporation or association a written order at least thirty days in advance of the time set for hearing, directing said corporation or association to appear before the commission and show cause why an order should not be issued requiring such changes. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this Act.

Sec. 9. That the term "corporation" or "association" as used in this Act shall include all incorporated associations of two or more persons and all unincorporated associations organized to carry on business as coowners with a view to profit, and shall also include any group of corporations or associations constituting substantially a business unit as heretofore defined by law.

Sec. 10. That service of process, orders, or notices under the provisions of this Act may be had by service on any officer or agent of any incorporated organization or on any member or agent of any unincorporated organization.

Sec. 11. That nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, or to modify or repeal said Act.

Sec. 12. That if any provision or requirement of this Act shall for any reason be held unconstitutional, the validity of the remaining provisions or requirements of this Act shall not be affected thereby.

PROGRESSIVE NATIONAL SERVICE COMMITTEE

FOR DISTRIBUTION

A CONTRACT WITH THE PEOPLE

Platform of the Progressive Party adopted at its first National Convention, Chicago, August 7, 1912. (*Published by Progressive National Committee.*)

Cost per Thousand (r. t. p. shipping charges), $6.50

A NEW SPIRIT IN PARTY ORGANIZATION

By Frances A. Kellor. Reprint from North American Review.

Cost in 1-M lots, $44.38; in 5-M lots, $100.42

HISTORY OF ILLINOIS LEGISLATURE

Cost in 1-M lots, $75.00; in 5-M lots, $200.00

NATIONALISM—ITS NEED IN OUR SOCIAL, INDUSTRIAL AND POLITICAL GROWTH

Being the speeches delivered at the Second Annual Lincoln Day Dinner of the Progressive Party, Hotel Astor, New York City, February 12, 1914. (*Published by Progressive National Committee.*)

Cost per Thousand (r. t. p. shipping charges), $10.00

PROGRESSIVE PRINCIPLES

By Theodore Roosevelt. Selections from the campaign addresses of 1912, including several of the most important speeches in full. (330 pages) **(Postage, 10c.) Per Vol., $1.00**

SARAH KNISLEY'S ARM

A reprint of an article by Colonel Roosevelt in Collier's Weekly, dealing with the human aspect of the recall of judicial decisions. (16 pages) **Cost in 1-M lots, $17.50; in 5-M lots, $40.00**

PROGRESSIVE CONGRESSIONAL PROGRAM

Reprints of bills introduced in Congress in fulfillment of Platform with explanation of the need for and the remedy proposed by each bill. (Each bill and explanation contained in this pamphlet will be reprinted in separate pamphlets as desired, rates to be quoted on request.) (100 pages.)

Cost in 1-M lots, $90.00; in 5-M lots, $275.00

THE MAKING OF A MUNICIPAL PLATFORM

An address by William L. Ransom, with a Foreword by Theodore Roosevelt. (12 pages) **Cost in 1-M lots, $17.50; in 5-M lots, $40.00**

THE PROGRESSIVE MOVEMENT

By S. J. Duncan-Clark, published by Small, Maynard & Co. (318 pages)

(Postage, 8c.) Per Vol., 50c.

THE PROGRESSIVE PARTY

Reprint of an article by Theodore Roosevelt, which appeared in the October, 1913 Century. (16 pages)

Cost in 1-M lots, $17.50; in 5-M lots, $40.00

THE PROGRESSIVE-REPUBLICAN MERGER

A reprint of an article by Albert J. Beveridge in the Saturday Evening Post, July 20, 1913. (16 pages)

Cost in 1-M lots, $17.50; in 5-M lots, $40.00

UNEMPLOYMENT—A PROGRAM FOR RELIEF

A reprint from the Survey, by Frances A. Kellor.

Cost in 1-M lots, $17.50; in 5-M lots, $40.00

WILL THE PROGRESSIVE PARTY SURVIVE?

A reprint of an article by Peter Clark MacFarlane in Collier's Weekly of January 24, 1914. (*Published by Progressive National Committee.*) **Cost per Thousand (r. t. p. shipping charges), $4.60**

IN PREPARATION

Annotated Edition of the Progressive National Platform
Pamphlet on Sickness Insurance
Pamphlet on Standards of Labor Legislation
Pamphlet on Workmen's Compensation

Prices f. o. b. New York